



ETHICS FOR FAMILY MEMBERS OF JUDGES

By Judge Vivi L. Dilweg (now retired) Green Bay, Wisconsin, ABA Judicial Division liaison to the Code of Judicial Conduct Subcommittee of the 1990 ABA Standing Committee on Ethics and Professional Responsibility. Most states have adopted some or all of the 1990 Model Code of Judicial Conduct. In 2005 the ABA is working on a re-draft of the Model Code expected to change very little as to judges' families.

This abbreviated article may be reprinted.

The 1990 Model Code of Judicial Conduct changed the rules for judges concerning their immediate family members. The Code recognizes that judges do not control the actions of their spouses and adult children. ...

A summary of the Canons may give you guidance for the restrictions on your actions as a family member of a judge.

CANON 1

A judge shall uphold the integrity and independence of the judiciary.

CANON 2

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

CANON 3

A judge shall perform the duties of judicial office impartially and diligently.

CANON 4

A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

CANON 5

A judge or judicial candidate shall refrain from inappropriate political activity.

One general rule I like to use is if what you are doing were to appear on the front page of your local newspaper would it embarrass or cause problems for the judge in your life? If it would, don't do it. The most frequent problems for the family of a judge concern accepting gifts or favors from litigants or potential litigants, and political activities, especially in states where the judges are non-partisan. Another area of concern is creating the impression that you should receive special treatment because of your relationship to a judge.

There are specific rules that refer to the judge's family.

CANON 2B. states:

"A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment."

As a family member you should avoid putting the judge in a position where he/she might be influenced.

CANON 3E. (1)(c) states:

"A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(c) the judge knows that he or she, individually or as a fiduciary, or the

judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter of the controversy..."

If you know that you have an interest in a case pending before the judge in your family you should let the judge know so that he/she can disqualify themselves.

CANON 3E. (2) states:

"A judge shall...make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household."

Obviously, nothing requires you to cooperate with the judge in your life, but it could be embarrassing for the judge if you don't.

CANON 4D. (5) states:

"A judge shall not accept, and shall urge members of the judge's family residing in the judge's household, not to accept, a gift, bequest, favor or loan from anyone except for..."

The rule goes on to state the exceptions, which include ordinary social hospitality, awards, gifts or benefits incident to business or professional activities, and other such gifts or loans. There are eight categories listed.

CANON 5A. (3)(A) states: **"A candidate for judicial office:**

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;"

The most frequent question I get asked is: Can my daughter put a bumper sticker for a political candidate on her car or a sign in our yard? My answer is under this code she can, but you shouldn't drive the car and there's not much you can do about the sign in the yard if she lives in your house.

...Justice Potter Stewart said, "There is a big difference between what you have a right to do and what is right to do." For a judge's family member, I believe the Code only tells you what you have a right to do. Your own good judgment and common sense will tell you what is right to do.

For more information about Judicial Family Ethics and avoiding conflicts of interest, see these two publications by Cynthia Gray of the American Judicature Society:

An Ethics Guide for Judges and Their Families
Political Activity by Members of a Judge's Family

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