



Ethics Committee Report 2008

By Ethics Chair Isabel Picó Vidal, Esq.

THE ABA MODEL CODE OF JUDICIAL CONDUCT AND ITS AFTERMATH

In our last meeting, the Ethics Committee reported on the family related sections in the new ABA Model Code of Judicial Conduct which was revised February 2007.

A copy of our 2007 report "The Judge's Family in the ABA Model Code of Judicial Conduct" will be soon posted on the JFI website. We have also provided you with a copy at this meeting.

In addition to our report, there is an excellent article by Cynthia Gray that you can access through our website on "The 2007 ABA Model Code: taking judicial ethics standards to the next level" published on **Judicature** 90, number 6 (May-June 2007) which discusses major revisions in the code, emphasizing the important and controversial changes. In her conclusions, she clearly states that the ABA code is not binding on judges unless it has been adopted in their jurisdictions.

How many states, territories, and commonwealths have already revised the Code of Judicial Conduct on the 2007 ABA Model Code? The answer provided by Cindy Gray (at Jan Aikman's request) is that none so far has adopted or revised their local codes. Currently, all states but one (Montana) have judicial codes based on either the 1972 or 1990 model code or some hybrid of the two.

See this and other Judicial Family Institute (JFI) articles on security, ethics, avoiding family conflicts of interest, parenting in a high visibility situation, stress management, impairment assistance, and other topics at

<http://jfi.ncsconline.org>

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The Judicial Family Institute (JFI) , a Committee of the Conference of Chief Justices

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State adoption of Revised Model Code of Judicial Conduct is not an automatic process. It is within the discretion of each state, territory or commonwealth to adopt the revisions, and numerous states have already established committee to assist in this process. See State Adoption of

Revised Model Code of Judicial Conduct (Exhibit "A"); and status of State Review of Model Code of Judicial Conduct. (Exhibit "B").

At the last Annual Meeting held in Michigan the Conference of Chief Justices adopted Resolution number 4 "In Support of Adopting the Format and Numbering Systems of the 2007 ABA Model Code of Judicial Conduct". (Exhibit "C") It is now for the various states to determine how they will deal with the substance of the revisions.

OUR GOAL FOR 2008: STATE ETHICS CODES AND JUDICIAL DECISIONS

This year the Judicial Family Committee wants to emphasize that each state, territory and commonwealth has its own code of judicial conduct and that we should also look into decisions and opinions from those judicial and administrative forums as important sources of ethical norms. That is exactly what we are going to do next in this meeting: we will note instances when judges recuse themselves from cases tied to family in different jurisdictions. Besides state ethics codes and pertinent judicial decisions, we need to consider advisory opinions from state entities authorized to issue them.

JUDICIAL ETHICS COMMISSIONS AND ADVISORY OPINIONS

Judicial ethics commissions or advisory committees are now part of every state's judicial process and have been created by state constitutions, court rules, or statutes. Depending on the state, the commission or committee makes a recommendation to the Supreme Court as to the appropriate sanction or imposes a sanction the judge can ask the Supreme Court to review. In some cases, they just provide advisory opinions at judges' request. You can access judicial ethics advisory committees through our website. See exhibit "D". There are some jurisdictions where judicial ethics advisory opinions are not part of the judicial process.

As we discover in comparative ethics, analysis, cultural and social reality is crucial when an ethics code is adopted and interpreted by judges in their jurisdictions.