

STATE OF WASHINGTON
ETHICS ADVISORY COMMITTEE
ETHICS OPINION 19-05

Question:

I am a district court judge. Last month my child was admitted to the Washington State Bar and hired as an attorney for the public defender agency in the same County where I serve as a district court judge. As an attorney for the public defender agency, my child represents indigent clients in both the County's superior court and district court.

I have taken the position that I may not preside in any case in which my son is the attorney of record or in which he is one of the attorneys of record. However, is there any conflict for me to preside over other cases where my child is not an attorney of record, but the defendant is represented by an attorney from the County's public defender agency?

Answer:

Judges must hear and decide matters assigned to them, except when disqualification or recusal is required by CJC 2.11 or other law. CJC 2.7. CJC 2.11(A)(2)(b) requires judges to disqualify themselves in proceedings where their impartiality might reasonably be questioned, including circumstances when a person within the third degree of relationship to the judge is acting as an attorney in the proceeding. A judge's child falls within the third degree of relationship to a judge. CJC Terminology.

Thus, here, the judge may not preside over cases in which the judge's child is acting or has acted as an attorney in the proceeding. However, the fact that the judge's child is employed by the County's public defender agency does not automatically make it improper for the judge to hear cases of an attorney who is affiliated with the same public defender agency. CJC 2.11, Comment [4]; Opinion 17-03, 88-12. But the judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification. CJC 2.11 Comment [5]; Opinion 17-03.