

AVOIDING THE APPEARANCE OF IMPROPRIETY

The Mississippi Department of Human Services, Division of Children and Family Services, questioned whether judges should serve as a board member of dispositional resources utilized by their courts. Cannon 2A of the Code of Judicial Conduct states “A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” The Commentary to Cannon 2A states that a “judge must avoid . . . [the] appearance of impropriety” and that the “test for appearance of impropriety is whether, based on the conduct, the judge's impartiality might be questioned by a reasonable person knowing all the circumstances.” Judges should not serve on the boards of dispositional resources utilized by their courts as the same raises the appearance of impropriety.

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Under Chapter 7 (Social Security) of Title 42 of the United States Code, the federal government has made provisions to reimburse Mississippi for monies the State has expended on foster care maintenance payments. In order for the Mississippi to be eligible to seek reimbursement youth court's must comply with the Interstate Compact on the Placement of Children (ICPC) when placing children outside the State of Mississippi. It is imperative that for each child placed out of state that a ICPC-100A¹ Form be completed and accompany the child. Noncompliance with the ICPC, aside from the financial repercussion for the Mississippi Department of Human Services (MDHS), can also negatively impact on a child's safety and well being. Children whose placement in another state does not comply with ICPC requirements are often considered as being placed illegally. The consequence of an illegal out of state placement can include that the receiving state refuses to provide services to the child, that MDHS can be precluded from removing the child from the placement should they determine that the placement is no longer appropriate for the child and that the receiving state can refuse to assist MDHS in its efforts to aid the child. Courts that authorize the placement of children outside Mississippi must comply with the ICPC mandates to ensure the safety and well being of those children so placed, as well as to avoid costly penalties being imposed upon MDHS.

¹ A copy of the ICPC-100A and instructions follows this memorandum.