

**AMERICAN BAR ASSOCIATION  
CPR POLICY IMPLEMENTATION COMMITTEE**

**COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS**

	<p style="text-align: center;"><b>RULE 2.8 Decorum, Demeanor, and Communication with Jurors</b></p> <p><b>(A) A judge shall require order and decorum in proceedings before the court.</b>  <b>(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge’s direction and control.</b>  <b>(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.</b></p> <p><b>COMMENT</b>  [1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.  [2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror’s ability to be fair and impartial in a subsequent case.  [3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.</p> <p>Twelve (12) states have identical language (AR, CO, IN, KS, MD, MN, MT, NV, NH, NY, OH, WA)  Eleven (11) states have similar language (AZ, CT, HI, IA, MO, MS, NE, OK, TN, UT, WY)  One (1) state has different language (DE)</p>
<b>AL</b>	
<b>AK</b>	
<b>AZ Effective 9/1/09</b>	<p>(C): Adds “but may express appreciation to jurors for their service to the judicial system and the community” to end  [2]: Adds “<i>There are several exceptions to this general rule, however, and with certain qualifications judges may speak to a discharged jury following the return of a verdict. See Arizona Judicial Ethics Advisory Committee, Opinion 01-01 (reissued January 22, 2003). This rule does not preclude a judge from expressing appreciation to jurors for their service to the judicial system and the community or from communicating with jurors personally, in writing, or through court personnel to obtain information for the purpose of improving the administration of justice</i>” to end  Deletes [3]</p>
<b>AR Effective 7/1/09</b>	Identical
<b>CA (as pro- posed)</b>	The Committee proposes changing “court staff and personnel” to “staff and court personnel”

<b>CO</b> <b>Effective</b> <b>7/1/10</b>	Identical
<b>CT</b> <b>Effective</b> <b>1/1/2011</b>	(C) Adds to beginning of sentence: “Although a judge may thank jurors for their willingness to serve”; adds to end of sentence after “instruction”: “order or opinion in a proceeding, if appropriate.” Adds [4]: This rule does not purport to prevent a judge from returning a jury for further deliberations if its verdict is insufficient in amount, inaccurate, inconsistent with the court’s instructions or otherwise improper in form or substance.
<b>DE</b> <b>Effective</b> <b>11/1/08</b>	(A): replaces “shall” with “should” (B): replaces “shall” with “should;” adds “respectful” after “dignified;” deletes “court staff, court officials” from list of those with whom judge deals in official capacity; deletes “lawyers” and replaces “court staff” with “judge’s staff” in list of those subject to judge’s direction; and adds “including lawyers to the extent consistent with their role in the adversary process” to end Deletes (C) Replaces Comments: <i>The duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias towards another on the basis of personal characteristics like race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.</i> <i>In court proceedings, judges or former judges participating as litigants or counsel should not be called by their current or former titles or treated with greater familiarity or deference than other participants.</i>
<b>DC</b>	
<b>FL</b>	
<b>HI</b> <b>Effective</b> <b>1/1/09</b>	(C): adds “ <i>but may express appreciation to jurors for their service to the judicial system and the community</i> ” to end [2]: Deletes “may imply a judicial expectation in future cases and” Deletes [3]
<b>ID</b>	
<b>IL</b>	
<b>IN</b> <b>Effective</b> <b>1/1/09</b>	Identical
<b>IA</b> <b>Effective</b> <b>5/3/10</b>	(C) Adds to end, “but may express appreciation to jurors for their service to the judicial system and the community.”
<b>KS</b> <b>Effective</b> <b>3/1/09</b>	Identical
<b>KY</b>	
<b>MD</b> <b>Effective</b> <b>7/1/10</b>	Identical
<b>MA</b>	

<b>MI</b>	
<b>MN</b> Effective 7/1/09	Identical
<b>MO</b> Effective 1/1/2012	(C) Adds to the end: “but may express appreciation to jurors for their service to the judicial system and the community.” [2] Deleted MO [2] is the same as MC [3]
<b>MS</b> (as pro- posed)	(C) Adds to end: “but a judge may express appreciation to jurors for their service to the judicial system and the community.”
<b>MT</b> Effective 1/1/09	Identical
<b>NE</b> Effective 1/1/2011	[2] Adds to end: “However a judge may express appreciation to jurors for their service to the judicial system and the community.”
<b>NV</b> Effective 1/19/10	Identical
<b>NH</b> Effective 4/1/2011	Identical
<b>NJ</b>	
<b>NM</b> (as pro- posed)	(C) Adds to end: “but may express appreciation to jurors for their service to the judicial system and the community.”
<b>NY</b> (as pro- posed)	(C) Adds: “ <i>but may express appreciation to jurors for their service to the judicial system and the community</i> ”
<b>NC</b>	
<b>ND</b> (as pro- posed)	(C) Adds to the end: “but may express appreciation to jurors for their services to the judicial system and the community”
<b>OH</b> Effective 3/1/09	Identical Comments: [2]: Adds “ <i>This rule does not preclude a judge from expressing appreciation to jurors for their service to the judicial system and the community or from communicating with jurors personally, in writing, or through court personnel to obtain information for the purpose of improving the administration of justice</i> ” to end
<b>OK</b> Effective 4/15/2011	(C) Replaces “jurors for their verdict” with “the verdict of the jury;” Adds second sentence: “However, after the conclusion of a trial a judge is encouraged to express appreciation to the jurors for their service to the judicial system and to the community.”
<b>OR</b>	
<b>PA</b>	

As of July 27, 2011

<b>SD</b>	
<b>TN (as proposed)</b>	(C): Adds “...but may express appreciation to jurors for their service to the judicial system and the community” to end. [3]: Deletes “who is not otherwise prohibited by law from doing so”
<b>TX</b>	
<b>UT Effective 4/1/10</b>	(A): Adds “take reasonable measures to” after “shall” (B): Adds “take reasonable measure to” before “require” [1]: Replaces “promptly” with “competently and diligently”
<b>VT</b>	
<b>VA</b>	
<b>WA Effective 1/1/11</b>	Identical
<b>WV</b>	
<b>WI</b>	
<b>WY Effective 7/1/09</b>	(C) Adds after “proceeding:” “but may express appreciation to jurors for their service to the judicial system and the community.”

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