

**AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE**

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 3.10 Practice of Law	
	<p>A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family,* but is prohibited from serving as the family member’s lawyer in any forum.</p> <p>COMMENT [1] A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge’s personal or family interests. See Rule 1.3.</p> <p>Six (6) states have identical language (AR, KS, NH, OH, UT, WY) Fourteen (14) states have similar language (AZ, CO, DE, HI, IN, IA, MN, MO, MS, NE, NV, NY, OK, TN) Three (3) states have different language (MD, MT, WA)</p>
AL	
AK	
AZ Effective 9/1/09	<p>Adds [2]: <i>Retired, part-time or pro tempore judges may be exempt from this section. See Application, Parts B, C(1)(b) and D(1)(b).</i></p> <p>[3]: <i>Judges who are actively practicing law at the time of their election or appointment to the bench are encouraged to become familiar with ethical considerations immediately affecting the transition from lawyer to judge. Arizona Judicial Ethics Advisory Committee, Opinion 00-07 (December 20, 2000).</i></p> <p>[4]: <i>This rule does not prohibit the practice of law pursuant to military service.</i></p>
AR Effective 7/1/09	Identical
CA	
CO Effective 7/1/10	<p>Adds: “except as permitted by law or this Code” after “A judge shall not practice law”; Adds “but should not defend himself or herself when sued in an official capacity” after “pro se”; Adds “The judge may” before “without compensation, give legal advice”</p> <p>Adds Comment [2]: <i>A judge who drafts or reviews documents as permitted by this rule must comply with C.R.C.P. 11(b)</i></p>
CT Effective 1/1/11	Adds clause to beginning, “Except as provided herein.”
DE Effective 11/1/08	<p>(A): same as first sentence but replaces “shall” with “should”</p> <p>(B)(1): same as second sentence of 1990 Model Code Canon 4G</p> <p>Adds (B)(2) practice law pursuant to military service.</p> <p>Deletes [1]</p>
DC	Identical

(as proposed)	
FL	
HI Effective 1/1/09	Rule: adds “A judge is not prohibited from practicing law pursuant to military service, if the judge is otherwise permitted by law* to do so” to end [1]: adds “The Code allows a judge to give legal advice to and draft legal documents for a member of the judge’s family, so long as the judge receives no compensation” to end
ID	
IL	
IN Effective 1/1/09	Rule: adds “This Rule does not prohibit the practice of law pursuant to military service” to end Adds [2]: <i>A judge’s assistance to a family member in legal matters may not include signing pleadings or appearing before a tribunal for a family member.</i>
IA Effective 5/3/10	Adds: <i>Comment [2] This rule does not prohibit the practice of law pursuant to military service.</i>
KS Effective 3/1/09	Identical
KY	
MD Effective 7/1/10	Equivalent to Model Code Rule, but changes language to: <i>(a) In General. Except as expressly allowed by this Rule, a judge shall not practice law.</i> <i>(b) Exceptions</i> <i>(1) A judge may act self-represented in a matter involving the judge or the judge’s interest and, if without compensation, may give legal advice to and draft or review documents for a member of the judge’s family.</i> <i>(2) To the extent expressly allowed by law and subject to other applicable provisions of this Code, a part-time judge of an orphans’ court who is a lawyer may practice law, provided that:</i> <i>(A) the judge shall not use the judge’s judicial office to further the judge’s success in the practice of law; and</i> <i>(B) the judge shall not practice or appear as an individual in a matter involving the judge or the judge’s interest in the court on which the judge serves, even if another judge is presiding.</i> Does not adopt [1], adds instead: <i>[1] A judge may act self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.</i> <i>[2] Paragraphs (a) and (b) (1) of this Rule limit the practice of law in a representative capacity but not in a self-represented capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. In so doing, however, a judge must not abuse the prestige of office for any reason, including advancement of an interest of the judge or the judge's family. See Rules 2.4 (b) and 3.2 (c).</i>

	<i>[3] This Rule allows a judge to give legal advice to, and draft legal documents for, a member of the judge's family. Except for a part-time orphans' court judge allowed to practice law, however, a judge must not receive any compensation from, or act as an advocate or negotiator for, a member of the judge's family in a legal matter.</i>
MA	
MI	
MN Effective 7/1/09	Adds “a person with whom the judge has an intimate relationship, or a member of the judge’s household” after first use of “family” and replaces “family member’s lawyer” with “lawyer for any such person”
MO Effective 1/1/2012	Replaces “act pro se” with “represent himself or herself” [1] Replaces “act pro se” with “represent himself or herself;” Adds before the last sentence: “A judge may practice law as part of his or her military service.”
MS (as pro- posed)	[1] Deletes “See Rule 1.3” and adds to end of paragraph: “Nothing in this Rule shall be interpreted to prohibit judges from practicing law as allowed by Miss. Code Ann. § 9-1-25 and § 9-9-9, which authorize judges on the Supreme Court, court of appeals, circuit courts, chancery courts, or county courts to continue to practice for six months before certain courts from the time they assume office in order to conclude pending cases. Any cases which a judge seeks to conclude must be pending. This does not include cases which are in the judge’s office but not yet filed. <i>Mississippi Commission on Judicial Performance v. Osborne</i> , 876 So. 2nd 324, 327 (Miss 2004).”
MT Effective 1/1/09	<i>(A) A judge authorized by law to engage in the practice of law* must scrupulously avoid conduct in the practice of law which may create a conflict with judicial duties or create the appearance of impropriety.* If a conflict arises between the judge’s obligations as judge and the private practice of law, the judge shall resolve the conflict in such a way that accomplishes the fulfillment of judicial duties.</i> (B): same as second sentence of Model Code
NE Effective 1/1/2011	Adds [2]: <i>This Rule does not prohibit the practice of law pursuant to military service.</i>
NV Effective 1/19/10	Adds “Unless otherwise permitted by law” to first sentence.
NH Effective 4/1/2011	Identical
NJ	
NM (as pro- posed)	[1] Replace reference with respective Rule 21-103 NMRA
NY (as pro- posed)	Adds “full time” before “judge;” Adds clause, “Notwithstanding this prohibition,” before “a judge may act pro se;” deletes language after “judge’s family.”
NC	
ND (as pro-	Adds [2]: <i>For purposes of the prohibition under this Canon and N.D. Const. art. VI, &S& 10, against the</i>

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posed)	<i>practice of law, service in a judge advocate position in a military reserve or guard unit may constitute the practice of law, unless the duties are judicial in nature.</i>
OH Effective 3/1/09	Identical
OK Effective 4/15/2011	Adds [2]: “This rule does not prohibit the practice of law pursuant to military service.”
OR	
PA	
SD	
TN (as pro- posed)	Adds: <i>A newly elected or appointed judge can practice law only in an effort to wind up his or her practice, ceasing to practice as soon as reasonably possible and in no event longer than 180 days after assuming office.</i> [1]: Adds <i>This rule does not prohibit the practice of law pursuant to military service. See also Tenn. Code Ann. § 23-3-102 (public officers prohibited from practicing law) and § 17-1-105 (judges and chancellors prohibited from practicing law).</i> Adds [2]: <i>The only law practice allowable is that which is necessary to wind up a law practice. Accordingly, no new matters may be accepted. The 180-day bright line rule in winding up a law practice does not prohibit the judge from receiving fees after this deadline for services performed prior to the deadline. See State v. Lipford, 67 S.W.3d 79 (Tenn. Crim. App. 2001).</i>
TX	
UT Effective 4/1/10	Adds “otherwise” before “prohibited from serving”
VT	
VA	
WA Effective 1/1/11	Body of Model Code similar to State Code Paragraph (A). State Code adds, after “pro se:” “or on behalf of his or her marital community or domestic partnership;” adds modifier “adjudicative” before “forum” at the end of the paragraph. State Code adds Paragraph (B): “This rule does not prevent the practice of law pursuant to national or state military service.”
WV	
WI	
WY Effective 7/1/09	Identical

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