

**JUDICIAL ETHICS COMMITTEE**  
**ADVISORY OPINION NO. 98-5**

This Committee has been asked to render an opinion regarding the propriety of juvenile court judges and their employees supervising probation and other programs for juveniles whom they have placed on any type of probation. Included in this issue is the appointment and supervision of probation officers for juvenile court.

Each year, the State provides participating counties with supplemental funds for the improvement of juvenile court services. T.C.A. § 37-1-162(a). A juvenile court accepting these funds is statutorily required to employ a youth services officer to be appointed and supervised by the court. Id. It is the Committee's opinion that the implementation of these statutory requirements give the appearance of impropriety, in violation of Canon 2 of the Code of Judicial Conduct.

Youth services officers serve the same role as probation officers serve for adults. Among their many duties, youth services officers receive and examine complaints and allegations of delinquency for the purpose of considering whether proceedings against the juvenile should commence; make investigations, reports, and recommendations to the court; and make predisposition studies and submit reports and recommendations to the court. T.C.A. § 37-1-106(b). Also, youth service officers appear as witnesses in proceedings before the judge who appoints and supervises them. By appointing a youth services officer to perform these functions in the judge's courtroom, a juvenile court judge risks the appearance of impropriety. For instance, if a youth services officer makes recommendations concerning the disposition of a juvenile's case to the juvenile court judge who employs and supervises the officer, it could be argued that the ultimate decision to adjudicate the juvenile delinquent was not neutrally and impartially made. It could also be argued that the juvenile court judge gives great or

greater deference to any recommendation of a youth services officer he or she has appointed and/or supervises. For these same reasons, the Committee believes it is ethically improper for a juvenile court judge to supervise an entire juvenile probation program.<sup>1</sup>

In sum, it is this Committee's opinion that a juvenile court judge who appoints and supervises the youth services officers appearing in his or her court and/or runs the youth probation program is not acting "in a manner that promotes public confidence in the integrity and impartiality of the judiciary." See Canon 2, Code of Judicial Conduct. It is also this Committee's opinion that the better practice would be to allow the executive branch to employ, supervise, and operate each county's probation program.

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JOHN H. PEAY, Chairperson

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<sup>1</sup>There is also the glaring problem of a violation of the constitutionally mandated separation of powers. We leave this issue for the proper legal authorities.