

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

April 3, 1990

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge may compensate his eighteen-year-old daughter with state funds set aside for the hiring of a bailiff. The judge's daughter has previously worked as volunteer performing the duties of a clerk and bailiff in the judge's office.

It is the opinion of the Commission that the activity described would violate Canon 3B(4) of the Alabama Canons of Judicial Ethics as previously applied by the Commission.

In order for the judge's daughter to be compensated with funds provided for payment of a bailiff, she would have to first be appointed bailiff by the judge. In Advisory Opinion 76-13, this Commission advised that such an appointment violates Canon 3B(4) as read in light of [Section 41-1-15, Code of Alabama, 1975.] Those provisions are as follows:

### Canon 3B(4)

"A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism."

### Section 41-1-5

"No officer ... of the state ... shall appoint any person related to him within the fourth degree of affinity or consanguinity to any job, position, or office of profit with the state or any of its agencies ..."

Read together, these provisions prohibit a judge from appointing a relative within the fourth degree as a bailiff or clerk. See also Advisory Opinion 86-250.

Sincerely,

JUDICIAL INQUIRY COMMISSION