



Committee on Professional Ethics

Opinion #254 - 6/26/72 (38-72) Topic: Conflicts of Interest.

Digest: County legislator's partners and associates may accept assignments to defend indigent defendants if validity of county law not in question.

Code*: EC 5-15.
DR 5-101; 5-105(a); 5-105(D).

QUESTION

May a county legislator's partners and associates in his law practice accept court assignments to defend indigent defendants?

OPINION

Unless the validity of a county ordinance, law, rule or regulation is in question, it is not improper for a partner or associate of a county legislator to accept assignments to defend indigents in a criminal proceeding. N.Y. State 226 (1972); ABA Inf. 1126 (1969).

However, in the event the validity of such ordinance, law, rule or regulation is in question, a conflict of interest would exist for the lawyer-legislator and the legislator would be disqualified from representing the accused. DR 5-101; DR 5-105(A); EC 5-15. See, N.Y. State 226 (1972); N.Y. State 141 (1970); N.Y. State 110 (1969). The legislator's partners and associates would in such case be similarly disqualified for where it is improper for one member or associate of a firm to represent a client in a particular matter, it is improper for all other members and associates of that firm to represent that client. DR 5-105(D); N.Y. State 241 (1972); N.Y. State 227 (1972); N.Y. State 214 (1971); N.Y. State 203 (1971); N.Y. State 118 (1969); N.Y. State 82 (1968); N.Y. State 40 (1966).

Of course, because the assignment is made by the court, the facts should be brought to the court's attention by the lawyer for such disposition as the court deems proper.
