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HEADLINE: Judicial role in hiring forbidden by new order; Chief judge clarifies anti-nepotism policy

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BODY:

Maryland's top judge issued an order yesterday barring judges from playing any role in hiring for the state Department of Public Safety and Correctional Services, in the wake of a news report about a Baltimore court program that employs the children of judges who sit on its hiring committee.

Judge Robert M. Bell, chief judge of the Maryland Court of Appeals, said he was concerned about the appearance created by the hirings for the Alternative Sentencing Unit, a small program that intensively supervises some criminals in the community as an alternative to prison. The hirings were detailed in an article in The Sun yesterday.

Though the program is on paper part of the state public-safety department, its workers have been hired by a personnel committee that includes Circuit Judges Roger W. Brown Sr. and Mabel E. H. Hubbard.

Since 1994, the program has hired two of Brown's children, one of Hubbard's sons, her son's friend and the son of a top assistant to Baltimore State's Attorney Patricia C. Jessamy. Both judges have stressed in interviews that they did not act inappropriately in sitting on the hiring committee and that they did not participate in any interviews of their own children or friends. They did interview each other's children.

The judges and Thomas E. Kirk, the manager of the program, have said the employees were qualified for their jobs, which included no benefits and salaries of about \$ 20,000.

Bell's order said that "it is deemed necessary and appropriate to insure that nepotism does not occur in the future in those circumstances."

In issuing his order yesterday, Bell said he was plugging a hole in the rules for judges. He said that an anti-nepotism policy he issued in October did not cover hiring outside the judiciary and that he intended to investigate further to see if there were other situations in which judges around the state are involved with hiring for executive agencies.

"I am not suggesting by issuing this order that anybody did anything wrong," Bell said. "This has to do with making sure there is no appearance of impropriety or partiality in the hiring of agencies in which the judiciary has some role. I'm in favor of there being no misperceptions at all."

Bell said he had called Hubbard and Joseph H. H. Kaplan, administrative judge of the Baltimore Circuit Court and a longtime supporter of the Alternative Sentencing Unit, to inform them of his new order. Kaplan and Brown did not return phone calls from a reporter. A secretary said that Hubbard declined to comment.

Antonio Gioia, a defense lawyer who sits on the unit's oversight committee, said he was "very disappointed" in Bell's order. He cautioned that he was not speaking for the committee, which has not met since the order was issued.

"I believe the process itself was set up so that any fair-minded person would see that nepotism never entered the selection process," Gioia said. "The individuals were qualified for these positions. There is no evidence that persons who were more qualified were denied employment."

As for Judges Hubbard and Brown, Gioia said: "I have never met two more highly principled individuals on the bench or in my life. I think their conduct was not unethical in the least. And I feel very badly that reputations they've burnished for years have now been called into question."

The impact of the order on the unit was not immediately clear.

Leonard A. Sipes Jr., spokesman for the Department of Public Safety, said that department Secretary Bishop L. Robinson spoke with Bell and Kaplan yesterday about the matter and that "conversations will continue. They have many ideas that they will discuss among themselves." Meanwhile, Sipes said, there had been no immediate changes in the operation of the program. Gioia said Bell's order would be honored.

State Del. Peter Franchot, a Montgomery County Democrat who chairs the House subcommittee that reviews the Department of Public Safety's budget, praised what he called Bell's "swift action." He said his committee planned to look further at the Alternative Sentencing Unit.

"Even a perception of conflict in the judiciary erodes public confidence in an institution for whom public confidence is absolutely essential," Franchot said. "Whether we're dealing with something that is a perception or an actual problem is almost irrelevant, because the judiciary needs to be extremely careful about its image."

State Sen. Ida G. Ruben, a Montgomery Democrat who chairs a similar subcommittee in the Senate, said she also was interested in changing hiring practices of the unit to avoid any question of impropriety. That way, she said, there would be no taint on the hiring of judges' relatives who are qualified and eager to work.

"Do you punish the children because their parents happen to be in the same field?" the senator said. "It doesn't look good. That doesn't mean it's all bad."

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GRAPHIC: COLOR PHOTO, SUN FILE PHOTO, Order: Robert M. Bell, chief judge of the Court of Appeals, said his action plugs a hole in the rules.

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