

CIRCUIT CLERK:
NEPOTISM:

A circuit clerk is not prohibited by Article VII,
Section 6 of the Missouri Constitution from promoting
the wife of the clerk's husband's brother.

August 17, 2001

OPINION NO. 157-2001

Honorable Lynn M. Ewing, III
Vernon County Prosecuting Attorney
Vernon County Courthouse
100 West Cherry
Nevada, MO 64772

Dear Mr. Ewing:

You have submitted a question to this office whether a circuit clerk can promote the wife of the clerk's husband's brother without violating the provisions of Article VII, Section 6 of the Missouri Constitution.

Article VII, Section 6 of the Missouri Constitution provides: "Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment."

Consanguinity is defined as a blood relationship. Black's Law Dictionary 303 (6th ed. 1990). Therefore, consanguinity is not involved in your inquiry.

Affinity is defined as a legal relationship which arises as the result of marriage "* * * between each spouse and the consanguinal relatives of the other."

. . . the husband is related by affinity to his wife's relatives in the same way that she is related to them by blood, and she is related to his relatives by affinity in the same way that he is related to them by blood.

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State ex inf. Norman v. Ellis, 28 S.W.2d 363, 366 (Mo. banc 1930). Because affinity extends to a spouse and the spouse's blood relatives, the wife of the clerk's husband's brother is not related by affinity to the clerk.

CONCLUSION

A circuit clerk is not prohibited by Article VII, Section 6 of the Missouri Constitution from promoting the wife of the clerk's husband's brother.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General