



**KANSAS BAR
ASSOCIATION**

TO: **The Honorable John Barker**
 And Members of the Senate Judiciary Committee

FROM: **Joseph N. Molina**
 On Behalf of the Kansas Bar Association

RE: **SB 197**, Applying the open meetings act to the supreme court nominating
 commission and judicial district nominating commissions; applying the open
 records act to certain attorney information; requiring attorneys to document
 certain eligibility requirements to vote in the commission selection process.

DATE: **March 18, 2015**

Chairman Barker and Members of the House Judiciary Committee:

I am Joseph Molina and I provide this written testimony on behalf of the Kansas Bar Association in opposition to SB 197 which would require applies open meeting act to the Supreme Court nominating commission.

At the outset the KBA commends this committee for discussing transparency issues as it relates to the judicial selection process. The KBA believes in an open government and transparency should be the goal at each level of judicial selection in Kansas. With that said, the KBA is supportive of the Senate amendment requiring that “if the governor is making an appointment to the court of appeals, the governor shall make each applicant’s name and city of residence available to the public ...” The KBA believes this is a very large step towards transparency.

However, SB 197 still contains redundancies, jurisdictional confusion and avoidable constitutional issues that warrant additional review and study.

For instance, the roster of Kansas attorney’s is already available through the Kansas Supreme Court via an open record request. This includes which Kansas attorneys are eligible to vote in SCNC elections. As such, the Supreme Court has already addressed one portion of SB 197.

Furthermore, the Supreme Court Nominating Commission has made the interview process more transparent without legislative action. The SCNC opened the hearing/interview process to the public, engaged technology to live stream these interviews and even allowed an applicant to appear via Skype. Information about each applicant is posted on the court’s website for general public consumption. Further changes should be left to the Supreme Court to avoid any unnecessary jurisdictional confusion.

Finally, SB 197 creates possible constitutional issues. For instance, section 5 of SB 197 amends the appointment process for vacancies among the chairman of the commission or any lawyer member from each congressional district. This section allows the governor to fill the lawyer member vacancy by appointment. This section may lead to undo confusion since Article 3, Section 5(e) of the Kansas Constitution allows the governor to appoint four members. By mandating the governor fill more than four position by appointment SB 197 creates a potential conflict between statutory law and the Kansas Constitution.

Additional review of SB 197 should be afforded to ensure these provisions are implemented in the most efficient manner which reduces overlapping work product, jurisdictional confusion and potential constitutional issues.

For these reasons the Kansas Bar Association opposes SB 197.

Thank you for the opportunity to provide comments of this important piece of legislation.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,200 members, including lawyers, judges, law students, and paralegals. www.ksbar.org