



**KANSAS BAR
ASSOCIATION**

TO: **The Honorable Jeff King**
 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: **February 18, 2015**

Chairman King and Members of the Senate 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 changes to the election process of lawyer members to the Kansas Supreme Court Nominating Commission.

At the outset the KBA would like to commend the committee for discussing transparency issues as it relates to the judicial selection process. The KBA believes that we should all work for as open a government as possible. The KBA believes that transparency should be the goal at each level of judicial selection in Kansas.

Speaking directly to SB 197 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.

In addition, SB 197 creates an avoidable blurring of the lines between branches of government. 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 the position by appointment it creates a situation where the executive branch is afforded 5

appointed members none of which need be an attorney. Additional review of SB 197 should be afforded to ensure this provision and others do not trigger separation of power issue.

For these reasons the Kansas Bar Association opposes SB 197.

Thank you for your attention today and I stand for questions.

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