



**KANSAS BAR
ASSOCIATION**

TO: The Honorable Fred Patton, Chair
And Members of the House Judiciary Committee

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

**RE: KBA Support for HB 2020 – Attorney Registration and
Information, Supreme Court Nominating Commission**

DATE: January 28, 2019

Chairman Patton and members of the House Judiciary Committee, my name is Joseph Molina and I appear on behalf of the Kansas Bar Association in **SUPPORT** of HB 2020 concerning attorney licensure and information. The KBA supports HB 2020 for two main reasons:

- it provides security for personal identifying information required of licensed Kansas attorneys;
- it unburdens the Kansas Supreme Court from unnecessary and duplicative regulations.

Article 3, Section 5(e) of the Kansas Constitution requires that a lawyer be a resident of and licensed in Kansas to be eligible to nominate and elect a member of a local or supreme court nominating commission. (For local nominating commissions, the lawyer must be a resident of the appropriate congressional district). The 2016 law adds three new requirements that do little to enhance the effective administration of these elections. For instance, the 2016 law requires the attorney provide gender, date of birth, and a portion of the individual's SS# or KS Driver's License. This personal identity information is **NOT** required under the Kansas Constitution.

More troubling is the practical effect these added requirements have on those eligible, pursuant to the Kansas Constitution, to participate in these elections. These requirements amount to a form of **self-disqualification**. Anyone failing to provide the new information will not be on the list sent to the KS Secretary of State's office for certification. As such, those individuals forfeit the right—afforded by the Kansas Constitution—to nominate and elect members to the SCNC or a district commission.

Additionally, the new information poses a real and significant safety concern for judges, prosecutors and lawyers who deal with a volatile client base. The Kansas Supreme Court has the authority to refuse disclosure of certain information pertaining to lawyers. The Court may also use specific KORA exemptions to deny release of certain personal information. Under the 2016

law, those exemptions and authorities are not available when the list is sent to the KS Secretary of State's Office. Thus, making it possible for anyone wanting the home address of a certain judge, or the prosecutor in their family member's case to simply file a KORA request and receive that information.

Under the 2016 law, a lawyer is confronted with a lose-lose situation involving their decision to either allow personal information into the public domain or forfeit the Constitutional right to engage in these elections. A lawfully registered Kansas attorney who resides in the state should not be forced into a decision to release very specific personal information or be denied a Constitutional right.

HB 2020 repeals many of the provisions from a 2016 law that burden the court's basic administrative functions. Most glaring are the additional eligibility requirements for an attorney to nominate and elect members of both local and supreme court nominating commissions. Article 3, Section 1 of the Kansas Constitution empowers the Kansas Supreme Court with general administrative authority over all courts in this state. The Kansas Supreme Court exercises this authority through various court rules. For instance, Rule 208 provides the requirements to register as a Kansas licensed attorney. The rule lays out the time period to register, the attorney's active status, the appropriate fee and the penalty for failure to comply. Once these requirements are met, the attorney is registered and may avail himself or herself of all the rights and privileges of a Kansas licensed attorney.

Unfortunately, the 2016 law hampers this straightforward, concise process by requiring additional personal identifying information. The added burden is such that the court has dedicated hundreds of work hours and tens of thousands of dollars to create a form asking for information that it already has available. Moreover, the new process is ambiguous as to why the additional information is required or how it will enhance the process. The Supreme Court should be allowed to direct its general administrative authority in a manner best suited to its mission.

For these reasons the KBA supports HB 2020 and urges this committee to repeal the damaging effects of the 2016 law by recommending this bill favorably for passage.

Thank you for your time and attention. I am happy to stand for questions when appropriate.

About the Kansas Bar Association:

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