



**KANSAS BAR
ASSOCIATION**

TO: The Honorable Rick Wilborn
And Members of the Senate Judiciary Committee

FROM: Joseph Molina
On Behalf of the Kansas Bar Association

RE: SB 7 - Enacting the governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property, and economic security during this public health emergency

DATE: JUNE 4, 2020

Chairman Wilborn and Members of the Senate Judiciary Committee:

My name is Joseph Molina and I provide this written testimony on behalf of the Kansas Bar Association. The KBA appreciates the opportunity to participate in this hearing.

The KBA has a long-standing policy supporting access to justice, which is the ability to bring grievances before an impartial arbiter to resolve complaints based on facts and the law. Access to justice is perhaps the most essential aspect of the American judicial system. It is with this understanding that the KBA opposes blanket immunity for COVID-19 related claims against business and healthcare institutions.

Individuals harmed, even during a pandemic, should be afforded the opportunity to have their claim reviewed by a court of law. Limiting these rights through immunity provisions erodes the public's confidence in the judicial system. Immunity provisions of this type will leave injured individuals with no other recourse.

Let us be clear, we are sympathetic to the current crisis and the individuals and businesses affected by COVID-19. In these unprecedented times it is critical to carefully evaluate all aspects of the crisis before making wholesale changes. At present, it is impossible to fully know the scope and breathe of affected individuals. The list of symptoms is ever expanding along with the types of healthcare outcomes. For instance, in the early phase of the disease, children were considered to be at little to no risk. It has since been reported that minors have died, and some are now experiencing an inflammatory illness that may be linked to COVID.

The landscape is shifting daily with this novel disease. To move forward with legislation when the scope of the crisis is not yet fully understood is unwise. The legislature should have a more in-depth discussion when more information is available before crafting legislation that provides immunity for specific actors in a crisis. If you don't know where you're going, you might not get there.

It should also be pointed out that the need for immunity for business from COVID-related claims runs counter to the rush by the business sector to reopen the economy. If it is safe enough to invite consumers to a place of business, why would that business require immunity for acts within its control. The same

groups lobbying for reopening of the economy are now asking to be protected for reopening the economy. The potential for legal consequences has always served—and should continue to serve—as a means to ensure that businesses make careful decisions.

For these reasons, the Kansas Bar Association opposes the current legislation because it denies access to justice.

Thank you for your time and attention.

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 paralegal. The KBA is organized thru a Board of Governors that resemble the diversity of the legal profession. Our 33-member board includes judges and lawyers from around the state. We have solo practitioners and partners in some of Kansas' largest law firms. We have a legal service attorney and career prosecutors, not to mention several government lawyers. The KBA is comprised of a diverse group of lawyers.