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**Testimony Before the Senate Committee on Federal and State Affairs
In Support of SB 299 - Thursday, January 15, 2026**

Chairman Thompson, Vice-Chairman Blew, Ranking Member Faust-Goudeau, and Committee:

I support SB 299 because it would reduce secrecy in Supreme Court Nominating Commission elections and proceedings.

I currently serve on the 2nd Judicial District Nominating Commission as one of four attorney members elected by the bar in our four-county judicial district. Over the past year, our commission has selected two magistrate judges in commission deliberations. While I remain critical of the nominating commission model as undemocratic and “elitist,” I also believe it is important to work within the law as it currently exists to achieve the best results while constantly seeking improvement (e.g. SCR 1611). That is why I have been willing to provide testimony supporting structural reform to our judicial selection system while serving on the very type of nominating commission I think falls short of democratic ideals and representative government.

Last spring, as the 2025 legislative session was wrapping up, I contacted the Clerk of the Appellate Courts (the office that serves as the clerk for the Supreme Court Nominating Commission) to ask who had filed as a candidate for chair of the Supreme Court Nominating Commission. The Clerk told me that the names of the candidates for public office—chair of the Supreme Court Nominating Commission—were *closed records* pursuant to Kansas Supreme Court Rule 1101, which reads in part: *(a) All records of a judicial nominating commission are confidential and not subject to disclosure to anyone not a member of the commission or assisting the commission.* A copy of that correspondence is attached to this testimony.

In addition, the Clerk informed me that due to Rule 1101, he couldn’t even tell me *how many* candidates had filed for the election of chairman. This was somewhat mind-boggling, so I decided to file as a candidate just so there could be an election/choice. As it turns out, *two* other attorneys had filed as candidates, and all three of us were listed on the ballot. Frankly, I don’t know of any parallel in our state or local government where the *name* and *number* of candidates in an election for public office are *closed* to the public until after the filing deadline. I don’t know what public policy result this accomplishes, and I would think that for a governmental function as important as *picking our supreme court justices*, maximum transparency would be favored, not just for commission members but also for judicial applicants.

Having been through senate confirmation twice in this state, run for election for a few different offices, and been selected as a finalist for district court judge, I’m personally familiar with the transparency necessary to ensure adequate vetting of candidates for public office. I believe our judicial applicants and our judge “pickers” (nominating commission members) should be subject to the same amount of vetting and transparency as all other candidates for public office, if for no other reason than to improve the public trust Kansans have in their courts.

As it is, however, the process for becoming a supreme court justice “picker” as a member supreme court nominating commission is secretive and nontransparent. That should change.

SB 299 won’t fix our nominating commission process’s elitism or democratic illegitimacy, but it would help it be a little less secretive.

Candidates for NomCom question

Doug Shima <Doug.Shima@kscourts.gov>

Mon, Mar 31, 2025 at 3:52 PM

To: Ryan Kriegshauser <ryan@knlawgroup.com>, Josh Ney <josh@knlawgroup.com>

Cc: Michelle Moore <Michelle.Moore@kscourts.gov>

Ryan,

I am not going to change my response to your request for information concerning the names or number of applicants for the lawyer elections of the Supreme Court Nominating Commission.

I believe you are improperly attempting to limit the definition of what constitutes a record of the Supreme Court Nominating Commission. By rule, I am the secretary of the Supreme Court Nominating Commission and therefore an agent of the commission. Rule 605. The information you are requesting has not been compiled into any type of report and will not be until the nominations close after April 1, 2025. Even if you argue this information is in some sort of reportable form, then clearly under Supreme Court Rule 1101(a) "All records of a judicial nominating commission are confidential and not subject to disclosure to anyone not a member of the commission or assisting the commission." The term "Record" is defined broadly in section (c) to include "any information, regardless of form, characteristics, or location, which members or agents of the commission have prepared, recorded, or collected and is related to the functions, activities, programs, or operations of the commission." The information you are requesting concerns the operations of the commission and is confidential.

Second, over the last decade I have served as Secretary of the Supreme Court Nominating Commission, I have not released the names of the nominees until the nomination process has officially closed. On April 2nd, we must immediately start the process of creating the ballots for the election because we must send out the ballots by ordinary first-class mail by May 1. K.S.A. 20-120. Any person that has called before April 2nd is instructed that we will release the information anytime April 2nd or after since the names of the nominees are no longer confidential because of the election process.

Thank you.

Doug

From: Ryan Kriegshauser <ryan@knlawgroup.com>

Sent: Monday, March 31, 2025 1:22 PM

To: Doug Shima <Doug.Shima@kscourts.gov>; Josh Ney <josh@knlawgroup.com>

Cc: Michelle Moore <Michelle.Moore@kscourts.gov>

Subject: Re: Candidates for NomCom question

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Doug:

Looking at the full text of the rule, it does not seem to apply at all to applicants running for the commission. It is related to the actual records of the commission and its members to protect judicial applicants and commissioners with personal thoughts on the judicial applicants. Further, if this rule was the sole basis I fail to see how you could release the applicants after April 1st as the Rule is completely silent about the filing deadline. I do not understand how the section you specified somehow both closes the names of applicants and then opens those names up after the filing deadline.

It would seem that the nomination forms to run as a commissioner are not records of the commission because the election is not conducted by the commission itself and even has a separate canvassing board.

Using this rule to not allow the public to know who has filed prior to the filing deadline seems very problematic and against public policy and it seems like a long stretch to say that the names of applicants to run are actually records of the commission.

The full text of the rule is below:

"(a) **Judicial Nominating Commission Records.** All records of a judicial nominating commission are confidential and not subject to disclosure to anyone not a member of the commission or assisting the commission. The following information regarding judicial applicants may be disclosed by the commission, in a form within its discretion: names, current employment positions, educational degrees received, previous employment or positions, and cities of residence.

(b) **Disclosure to the Governor.** Nothing in this rule prohibits disclosure by a commission of information to the Governor as needed for consideration of nominated candidates.

(c) **Records Defined.** For purposes of this rule, and Rule 1102, the term "records" includes, but is not limited to, all application materials submitted to a judicial nominating commission; all information collected or recorded by members or agents of the commission regarding a judicial applicant; the minutes of a commission meeting; and any other information, regardless of form, characteristics, or location, which members or agents of the commission have prepared, recorded, or collected and is related to the functions, activities, programs, or operations of the commission."

Will you reconsider your application of this rule to allow release of the names or number of applicants prior to the filing deadline in the interest of transparency to the process?

Thank you for your time.

Ryan A. Kriegshauser, Partner

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From: Doug Shima <Doug.Shima@kscourts.gov>
Sent: Monday, March 31, 2025 1:00 PM
To: Josh Ney <josh@knlawgroup.com>
Cc: Ryan Kriegshauser <ryan@knlawgroup.com>; Michelle Moore <Michelle.Moore@kscourts.gov>
Subject: RE: Candidates for NomCom question

Josh, as we discussed on the phone, Supreme Court Rule 1101(a) provides that "All records of a judicial nominating commission are confidential and not subject to disclosure to anyone not a member of the commission or assisting the commission."

Thanks.

Doug



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From: Josh Ney <josh@knlawgroup.com>
Sent: Monday, March 31, 2025 12:20 PM
To: Doug Shima <Doug.Shima@kscourts.gov>
Cc: Ryan Kriegshauser <ryan@knlawgroup.com>
Subject: Candidates for NomCom question

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Doug-

I spoke to Michelle this morning and she said that not only can the names of formally nominated candidates for statewide chair and 4CD not be shared with the public, even the number of candidates can't be shared.

I'm scratching my head regarding the legal authority to close these records, let alone the public policy basis of closure.

Can you advise? Obviously knowing who has filed and whether any candidates have filed has major implications on whether we or others might want to field a candidate. Every other election for public office is transparent regarding names and number of candidates before the filing deadline, so I'm not sure why this is different.

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