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TO: House Judiciary Committee

FROM: Kansas Judicial Council – Ron Nelson

DATE: January 18, 2012

RE: Testimony on 2011 HB 2252 Relating to Name Change After Out-of-State Divorce

In June 2011, the Kansas Judicial Council asked its Family Law Advisory Committee to study 2011 HB 2252 relating to name change after an out-of-state divorce. The Committee submitted a report to the Judicial Council recommending that HB 2252 not be passed, and the Council approved that report. A copy of the Committee's report is attached.

**REPORT OF THE JUDICIAL COUNCIL
FAMILY LAW ADVISORY COMMITTEE
ON 2011 HB 2252**

December 2, 2011

At the request of Rep. Lance Kinzer, the Judicial Council directed the Family Law Advisory Committee to study 2011 HB 2252 relating to restoration of a spouse's former name after divorce in another state. A copy of the bill is attached. The Family Law Committee recommends that HB 2252 not be passed.

Current Kansas law allows a person who was divorced in Kansas to request restoration of a maiden or former name at or any time after a decree of divorce becomes final. K.S.A. 60-1610(c)(1) (to be transferred to K.S.A. 2011 Supp. 23-2716). 2011 HB 2252 would allow a person who is currently a resident of Kansas but was divorced in another state to obtain a similar name change by providing an authenticated copy of the out-of-state divorce decree to the district court.

The Family Law Committee concluded that the divorce statute is not a good vehicle for a name change based on an out-of-state divorce. The current statute allows a person who has been divorced in Kansas to request a name change under the original case number of the divorce without paying any additional filing fee. For a person who was divorced in another state, there would be no existing divorce case and no case number. The consensus of the Committee was that the appropriate procedure for a person divorced in another state to obtain a name change in Kansas would be to file a petition for name change pursuant to K.S.A. 60-1402.

Rep. Kinzer's letter requesting the study indicated that Bob VanCrum had an interest in the bill. Judicial Council Staff Attorney Christy Molzen contacted Mr. VanCrum, who said he believes this is a full faith and credit issue. He also said he would submit further background information in writing but has not done so.

The Family Law Committee concluded that full faith and credit is not implicated here. A divorce decree entered in another state is entitled to full faith and credit in Kansas if the decree was granted in accordance with the laws of the other state. *Kendall v. Kendall*, 224 Kan. 624, 585 P.2d 978 (1978). If an out-of-state divorce decree were validly entered and purported to change a spouse's name, presumably, Kansas courts would give effect to that order. However, the situation contemplated by this bill is one where the original divorce decree did not order a name change. In other words, there is no order which is entitled to full faith and credit.

The members of the Family Law Advisory Committee are:

- Charles F. Harris, Chair, Wichita. Practicing attorney.
- Sara S. Beezley, Girard. Practicing attorney.

- Honorable Sam K. Bruner, Overland Park. Retired District Court Judge.
- Dr. Sharon E. Cain, Overland Park. Director of Child and Adolescent Psychiatry at the University of Kansas Medical Center.
- Jamie Corkhill, Topeka. Former attorney with Kansas Department of Social and Rehabilitation Services.
- Honorable William B. Elliott, Hill City. Retired District Court Judge.
- Honorable Robert J. Frederick, Garden City. District Court Judge.
- Joyce Grover, Topeka. Executive Director of the Kansas Coalition Against Sexual and Domestic Violence.
- Professor Nancy Maxwell, Topeka. Professor of Law at the Washburn University School of Law.
- Ronald W. Nelson, Shawnee Mission. Practicing attorney.
- Ardith R. Smith-Woertz, Topeka. Practicing attorney.
- Suzanne Valdez, Lawrence. Clinical Professor at the University of Kansas School of Law.