

## Testimony in support of HB 2020

Mr. Jay Hall

My name is Jay Hall. I am an attorney here in Kansas. I both live and work in the state. I am submitting this testimony as an individual and concerned citizen in support for HB 2020, and more specifically in support of eliminating the requirements of K.S.A. 20-2917. The request for information pursuant to K.S.A. 20-2917 is dangerous to attorneys in the state of Kansas.

K.S.A. 20-2917 requires that attorneys voting for the judicial nominating commission to submit the following information to the court to be transferred to the secretary of state under K.S.A. Supp. 25-2309 (b)(1) – (5):

- Name
- Residential address
- Date of birth
- Gender
- The last 4 digits of the attorney's SSN or the full driver's license number or non-driver's ID number

K.S.A. 20-2917(c) states specifically that the information of this list are all subject to an open records request under K.S.A. 45-215, meaning **any** person can obtain the information above.

This law is dangerous for two major reasons which I will discuss below, as well as exposing the state of Kansas to potential problems.

### **1. The law is physically dangerous for attorneys and their families**

The work of attorneys is adversarial in almost every instance. Attorneys work on divorces, child custody, bankruptcy, property seizure, criminal work and more. In many instances, clients or opposing parties may hold anger or resentment against an attorney simply doing their job. K.S.A. 20-2917(c) allows for a disgruntled individual to simply make an open records request to obtain the home address of any attorney.

This not only exposes the attorney to danger, but also the attorney's family. Attorneys have spouses, children and loved ones that have no connection whatsoever to their daily work. These individuals are innocent bystanders who could be potentially harmed should an angry client or opposing party obtain an attorney's home address and decide to use that information with bad intentions.

Prosecutors and judges are exposed to the most danger, and there are laws in place to protect their information, but other attorneys are not exempt from this risk. As noted above, nearly every attorney is in a position of working in an adversarial or controversial area. Protecting only judges and prosecutors

would be inadequate to address the full spectrum of safety concerns for **all** attorneys in Kansas. There is nothing to protect the personal information of an attorney working on a heated divorce or civil case.

In 2016, a civil attorney was **killed** in his home while working on a contentious case (visit [https://www.washingtonpost.com/news/morning-mix/wp/2016/05/20/this-was-a-hit-prominent-attorney-involved-in-contentious-case-found-dead-after-suspicious-fire/?utm\\_term=.2c9bb57e48c5](https://www.washingtonpost.com/news/morning-mix/wp/2016/05/20/this-was-a-hit-prominent-attorney-involved-in-contentious-case-found-dead-after-suspicious-fire/?utm_term=.2c9bb57e48c5) for more information).

Kansas attorneys and their families should not be exposed to this risk! The potential for danger cannot be anticipated or under emphasized.

## **2. The request exposes attorneys to potential identity theft.**

Identity theft has become an enormous problem in the financial sector. The Bureau of Justice Statistics found that there were 17.6 million people in the US that were victims of identity theft in 2014. That's about 7% of the US population over the age of 16. About 86% of those victims reported that their losses were associated with the use of an existing bank account or credit card.

In the financial sector, there is a term called Personally Identifiable Information, also known as PII. PII is used by banks, hospitals and other entities to identify individuals and their associated accounts, files and other private information.

For most banks and financial institutions, the information that is used to identify a customer is as follows:

- Full Name
- Residential Address
- Date of Birth
- Social Security Number

If you notice, most of this information is information that would be collected under K.S.A. 20-2917. For many identity thieves, they utilize partial information. The state of Kansas would be **giving** a potential identity thief three of the four items that they need to commit identity theft in full simply by submitting an open records request.

Additionally, many banks utilize the last four digits of an account holder's Social Security Number to verify account ownership over the telephone. This means that a person possessing the information required under K.S.A. 20-2917 could, if an attorney chose to submit the last four digits of their SSN, take over any bank account on which that attorney is a signer, including law firm accounts, client trust accounts and personal accounts. The potential fraud that could result cannot be calculated! Kansas law should not make the job of criminals easier.

Additionally, the Kansas Department of Revenue has a site where you can utilize the name and Driver's License Number of an individual to obtain their driving record. By requiring the full driver's license number, you have made the driving record of every Kansas attorney a public record that can be obtained by anyone that requests the information under K.S.A. 20-2917.

### **3. The State of Kansas could face potential liability**

In the past few years, several large companies have faced enormous liability when their computer systems were hacked and personally identifiable information was taken. Because K.S.A. 20-2917 makes this information an open record that can be obtained by anyone, any failure to identify individuals with potential ill intent prior to releasing these records to them could expose the state to liability for not adequately protecting that information since the state is literally giving the information away.

HB 2020 is critical for attorneys, their safety, the safety of their families, the protection of their identities and protecting the state of Kansas from any potential liability. Please move this bill forward to eliminate the requirement to collect this information, and to have this information subject to a public record. Any previously collected information should also be shielded from future open records requests to protect all attorneys in the state of Kansas.