



TESTIMONY OF MIKE FONKERT
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SENATE COMMITTEE ON JUDICIARY
OPPOSITION TESTIMONY ON SCR 1621
MARCH 3, 2022

My name is Mike Fonkert; I am the director of the Just Campaign for the Kansas Appleseed Center for Law and Justice, a nonprofit, nonpartisan organization dedicated to the belief that Kansans, working together, can build a state full of thriving, inclusive, and just communities.

Kansas Appleseed is opposing SCR 1621.

SCR 1621 proposes a sweeping change to the Kansas Constitution that would make it a more partisan institution.

Vacancies on the Kansas Supreme Court are filled using a merit-based nomination process. This process has served Kansas well. It allows a well-rounded commission made up of lawyers and nonlawyers alike from around the state to select the most qualified candidates for these important positions.

It is important to note the history of why Kansas chose to add protections to the nomination process by having a nonpartisan commission select qualified candidates. After losing an election in 1956 to George Docking, then Governor Fred Hall quickly resigned and was appointed by his Lieutenant Governor to fill a newly vacated Supreme Court seat before his successor took office. This was known as the “triple play” scandal and serves as a reminder of what can happen when partisan political calculations are being made by those with full control over the nomination process.

The Kansas Supreme Court has a responsibility to interpret ambiguous questions of law. They are the final authority on what the law in Kansas is. Given this task, it is essential that the most qualified legal authorities are selected to sit on the bench. The Supreme Court Nominating Commission has only one goal, to select the most qualified candidates. They do not need to concern themselves with partisan politics. They can focus exclusively on ensuring the nominees for the Kansas Supreme Court are the best candidates for the job.

Justices must have the independence to make the best legal rulings. Kansas is a better state when the branches of government are independent. Our government is not served by radical attempts to change the constitution every time there is a ruling that some may disagree with. Kansas Appleseed believes that the best way to ensure a fair and effective judicial system is to have a process where the most qualified candidates serve on the bench, not just the most politically expedient candidates.

Kansas needs judges who are neutral, impartial, and fair decision makers influenced only by the law and the facts of the cases presented to them. We do not want judges who feel beholden to the partisan political forces that selected them. The current Supreme Court Nominating Commission provides an important check that tempers political considerations of the Governor.

At Kansas Appleseed, we work every day to try to make Kansas a better place for everyone who lives in it. In order for that to happen, we need a legal system that is fundamentally fair for everyone. SCR 1621 would make the Kansas Supreme Court inherently more political and, in so doing, would not strengthen protections for our Constitution and the rights of Kansans enshrined within.

For all of these reasons, Kansas Appleseed is strongly opposed to SCR 1621.