



KANSAS BAR
ASSOCIATION

TO: The Honorable Tim Owens
And Members of the Senate Judiciary Committee

FROM: Joseph N. Molina
On Behalf of the Kansas Bar Association

RE: SB 297 – Concerning domestic relations and marital property

DATE: January, 23, 2012

Good morning, Chairman Owens and Members of the Senate Judiciary Committee. My name is Joseph Molina, and I appreciate the opportunity to provide written testimony in support of SB 297 on behalf of the Kansas Bar Association. SB 297 will amend K.S.A. 23-201 by removing the gifts from a spouse exception in marital property.

As way of background, the Legislature first considered similar legislation in 2011 (SB 44). SB 44 was introduced by the Kansas Bar Association into this committee. On February 9, 2011, the Senate Judiciary Committee held a hearing on SB 44, after which time SB 44 was tabled. No further action was taken on SB 44 during the 2011 session.

In 2011, the Probate Advisory Committee of the Kansas Judicial Council, made up of practicing attorneys from plaintiff and defense bar, law professors and judges reviewed several KBA proposals, including SB 44. The Kansas Bar Association was able to have a voice during these discussions as a KBA member, Nancy Roush, was asked to be part of the review process. The fruit of those discussions is presented in the form of SB 297.

SB 297, like its predecessor SB 44, would amend K.S.A. 23-201 by allowing separate property owned by one spouse, irrespective of whether brought into the marriage or received from a third party, to remain free of the other spouse's creditors, except when property is transferred to the other spouse. SB 297 would eliminate this exception allowing property transferred between spouses to remain free and clear of the transferring spouse's debts.

Creditors are still protected by other statutes, K.S.A. 33-101 and 33-201, under which they can reach these transferred assets.

In closing, the Kansas Bar Association supports the work product of the Probate Advisory Committee of the Kansas Judicial Council.

On behalf of the Kansas Bar Association, I thank you for the opportunity to provide this written testimony in support of SB 293.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,000 members, including lawyers, judges, law students, and paralegals. www.ksbar.org