

Thursday, May 10, 2012

Mast makes last pitch for sharia law bill

Posted: May 10, 2012 - 1:01pm

By Andy Marso

THE CAPITAL-JOURNAL

In a last-ditch effort to get a Senate vote on a bill to keep foreign laws out of Kansas courts, Rep. Peggy Mast, R-Emporia, staged a news conference this week to draw attention to a Wichita divorce in which she said the husband is requesting the court apply Islamic law, or sharia.

Mast planned to have a representative for the wife in the case at the event, but the representative decided against appearing at the last minute on the advice of the wife's attorney, because the case is still pending.

Mast plowed ahead with the event, telling a crowd of about 30 people who gathered Wednesday in the Statehouse's Old Supreme Courtroom that "there's been a lot of people feeling like we need to protect our Constitution and protect the freedoms we have."

The Wichita case involves Hussein Hamdeh, a Wichita State University physics professor. According to a brief filed by his wife's attorney, Hamdeh had two previous marriages in which he brought women from the Middle East to the United States and subsequently divorced them and was awarded "what appears to be substantially all of the property and custody of the minor children."

Lawyers on both sides of the case could not be reached for comment.

The brief states Hamdeh met and married his current wife, Hala Hamdeh, in Lebanon in 2003 when he was 50 and she was 31. He brought her to the United States the same year and since then she has been a homemaker and mother to their daughter, Tala, and her step-son, Ahmad. Hala Hamdeh, the brief states, has no post-secondary education and is not fluent in English.

Hussein Hamdeh filed for divorce in November 2010. A point of contention in the case appears to be whether his promise of a \$5,000 marriage gift, or Sadaq, is sufficient to settle his wife's side of the divorce financially, per his understanding of Lebanese religious laws and a "prenuptial" agreement, in English, that he had her sign in Wichita after their marriage. In the brief Hala Hamdeh's attorney argues that applying Islamic law to interpret whether there is a valid prenuptial agreement would violate her constitutional rights.

The brief states that in similar cases in New York and California, courts ruled that state divorce laws apply.

Ron Nelson, a family law attorney in Lenexa, said even under Islamic law the Sadaq, or dower, does not fulfill a husband's financial obligations to his wife in a divorce. He surmised that it may have entered the Hamdeh proceedings more as a negotiating tactic than a religious argument.

"The husband's claims that dower should satisfy his marital obligation are simply his positioning — much the same as nearly every other person who is going through a divorce and makes a goodly sum of money tries to do," Nelson said. "But that's not a sharia question. And it's certainly not a position limited to men with Islamic beliefs or a Middle East background. What it comes down to is that in any divorce pending in Kansas, the courts apply Kansas divorce and property division law and Kansas law on the support of spouses and children."

The judge has not made a ruling in the case, but Mast still said she's concerned about the use of "foreign law entered as evidence in the Kansas court system."

Nelson said whatever Mast's intentions, it's unwise for a legislator to wade into divorce proceedings that are two years in the making and still undecided.

"This case has over 43 pages of docket," he said. "It's obviously a complex and rancorous case."

In a media release, Mast suggested that Hala Hamdeh's rights to custody of her daughter are also

under threat because of sharia, but the guardian ad litem appointed by the court to look after Tala's best interests, Leah Gagne, said religion has not been a factor.

"All cases that involve extensive and heavy litigation take their toll on kids," Gagne said. "This is no different than two Protestants fighting over a child, two Catholics fighting over a child, two atheists fighting over a child."

Mast told the crowd that gathered for her media event that she's most concerned about the rights of women and children in Kansas being abridged or violated by Islamic law. She said she's been working on the foreign law bill for two years, bringing in speakers like an ex-terrorist and a former Delta Force special operations soldier.

"If the bill does not pass this year, it's going to be hard to gin up enough energy for the next two years," she said, referring to the next election cycle.

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