

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 105

As Amended by Senate Committee on Judiciary

Brief*

SB 105, as amended, would amend statutes in the Code of Procedure of Municipal Courts and the Kansas Criminal Code related to expungement of convictions or diversions.

The bill would add a provision in each code to state a court could not deny a petition for expungement due to the petitioner's inability to pay outstanding costs, fees, fines, or restitution (costs). The bill would specify that, for the purposes of petitioning for expungement, the determination of when a person satisfies a sentence imposed would exclude the payment of costs, fees, fines, and restitution. The bill would state the court could consider a petitioner's unwillingness to pay such costs as a factor in denying a petition for expungement.

The petitioner would be responsible for fully satisfying any outstanding costs, fees, fines, or restitution related to the arrest, conviction, or diversion, and for the purposes of collecting such costs, the following people would have access to any documents and information regarding the outstanding costs, fees, fines and restitution (in municipal court) or to the expunged case file (in district court):

- The clerk of the court;
- A contracting agent providing collection services;
- The petitioner and the petitioner's attorney;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The beneficiary under an oath of restitution and such beneficiary's attorney; and
- Any other person authorized by a court order if the court finds it is necessary to collect outstanding costs.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of the Kansas Judicial Council.

Senate Committee on Judiciary

In the Senate Committee hearing on February 10, 2021, a representative of the Kansas Judicial Council Criminal Law Advisory Committee testified as a **proponent** of the bill, stating that Committee members agreed there is a need to reduce financial hurdles and increase access to expungements for indigent offenders. A representative of the American Civil Liberties Union of Kansas also testified as a **proponent** of the bill, requesting an amendment to eliminate "unwillingness to pay" language and to remove all docket and application fees associated with expungement. Written-only **proponent** testimony was provided by representatives of the Greater Kansas City Chamber of Commerce and the Washburn Law Clinic, generally stating the bill is needed to allow affected individuals to gain employment and move out of poverty.

Neutral testimony was provided by a representative of the Office of Judicial Administration (OJA), requesting an amendment to allow access to the entire expunged case in district courts for collection purposes. No **opponent** testimony was provided.

On February 26, 2021, the Senate Committee adopted the amendment suggested by OJA.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, OJA indicates enactment of the bill could increase the number of cases filed in district court because it allows a person to file for an expungement even though the person has outstanding court debts, which could increase the time spent by court employees and judges processing and hearing cases. However, a fiscal effect cannot be estimated. OJA also states enactment of the bill could result in the collection of additional docket fees for those cases filed under the bill's provisions. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Courts; procedure; indigency; expungement; fines; restitution; fees