

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 10, 2021
Subject: Bill Brief for SB 105

Senate Bill 105 prohibits denial of a petition for expungement due to the petitioner's inability to pay outstanding costs, fees, fines or restitution.

Section 1 amends K.S.A. 12-4516, the statute in the Kansas code of procedure for municipal courts concerning expungement of any conviction or diversion for a violation of a city ordinance and related arrest records. Section 2 amends K.S.A. 21-6614, the statute in the Kansas criminal code concerning expungement of any conviction or diversion for a criminal infraction, misdemeanor, or felony and related arrest records.

The amendments to both statutes are substantively similar. The bill adds a new subsection (m) to provide that determination of when the person satisfied the sentence imposed excludes the payment of costs, fees, fines and restitution. The bill preserves the current law requirement that a person is only allowed to petition for expungement after the person has satisfied the sentence imposed. The bill adds a new paragraph to subsection (h) to provide that the court shall not deny the petition for expungement due to the petitioner's inability to pay outstanding costs, fees, fines or restitution. The petitioner's unwillingness, rather than inability, to pay such costs, fees, fines or restitution may be considered as a factor in denying the petition for expungement.

The bill also adds a new paragraph to subsection (i) to provide that the petitioner shall continue to be responsible to fully satisfy any outstanding costs, fees, fines and restitution related to the arrest, conviction or diversion. For the purpose of collecting such outstanding costs, certain people are granted access to documents and information regarding the outstanding costs, notwithstanding any expungement: the clerk of the court; a contracting agent; the petitioner and the petitioner's attorney; the beneficiary under an order of restitution and such beneficiary's attorney; and any other person as authorized by a court order if the court finds it is necessary for the person to have access for the purpose of collecting the outstanding costs.