



State of Kansas

Office of Judicial Administration

Kansas Judicial Center

301 SW 10th

Topeka, Kansas 66612-1507

(785) 296-2256

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Senate Judiciary Committee

SB 105—Neutral Testimony

Stephanie Bunten

Chief Financial Officer

Office of Judicial Administration

Chairwoman Warren and committee members, thank you for the opportunity to appear today and discuss SB 105. I'm Stephanie Bunten, Chief Financial Officer at the Office of Judicial Administration.

SB 105 would prevent a judge from denying an expungement petition solely because of a petitioner's inability to pay outstanding costs, fees, fines, or restitution. The bill establishes a framework for the continued collection of amounts due after an expungement has been granted. As part of that framework, the proposed amendment to K.S.A. 21-6614(i)(6) would permit a contracting agent operating under K.S.A. 20-169 to have access to "any documents and information regarding the outstanding costs, fees, fines or restitution notwithstanding any expungement."

At present, the contracting agents who collect these debts for the state court system under K.S.A. 20-169 enter an appearance in the case through the electronic filing system following debt referral. When that appearance is entered the contractor can see the full case record. It is not practicable to limit the accessible information to documents that solely address outstanding debts owed in the case. For this reason we request an amendment to clarify that the entirety of the expunged case may be accessible for collection purposes. The contemplated amendment would strike the language that refers to "any documents and information regarding the outstanding costs, fees, fines or restitution" and replace it with language that permits access to the expunged record itself. A proposed balloon amendment is attached.

In the absence of this amendment, it may be necessary to halt referral of these debts for collection after expungement, leading to loss of revenue for state and local governments, and stymying efforts to collect on restitution owed to victims.

Thank you for your time and consideration. I am happy to stand for questions.

1 (D) to aid in determining the petitioner's qualifications for executive
2 director of the Kansas racing and gaming commission, for employment
3 with the commission or for work in sensitive areas in parimutuel racing as
4 deemed appropriate by the executive director of the commission, or to aid
5 in determining qualifications for licensure or renewal of licensure by the
6 commission;

7 (E) to aid in determining the petitioner's qualifications for the
8 following under the Kansas expanded lottery act: (i) Lottery gaming
9 facility manager or prospective manager, racetrack gaming facility
10 manager or prospective manager, licensee or certificate holder; or (ii) an
11 officer, director, employee, owner, agent or contractor thereof;

12 (F) upon application for a commercial driver's license under K.S.A.
13 8-2,125 through 8-2,142, and amendments thereto;

14 (G) to aid in determining the petitioner's qualifications to be an
15 employee of the state gaming agency;

16 (H) to aid in determining the petitioner's qualifications to be an
17 employee of a tribal gaming commission or to hold a license issued
18 pursuant to a tribal-state gaming compact;

19 (I) in any application for registration as a broker-dealer, agent,
20 investment adviser or investment adviser representative all as defined in
21 K.S.A. 17-12a102, and amendments thereto;

22 (J) in any application for employment as a law enforcement officer as
23 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

24 (K) to aid in determining the petitioner's qualifications for a license to
25 carry a concealed weapon pursuant to the personal and family protection
26 act, K.S.A. 75-7c01 et seq., and amendments thereto; or

27 (L) to aid in determining the petitioner's qualifications for a license to
28 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
29 7e09 and K.S.A. 2020 Supp. 50-6,141, and amendments thereto;

30 (3) the court, in the order of expungement, may specify other
31 circumstances under which the conviction is to be disclosed;

32 (4) the conviction may be disclosed in a subsequent prosecution for
33 an offense ~~which~~ *that* requires as an element of such offense a prior
34 conviction of the type expunged; ~~and~~

35 (5) upon commitment to the custody of the secretary of corrections,
36 any previously expunged record in the possession of the secretary of
37 corrections may be reinstated and the expungement disregarded, and the
38 record continued for the purpose of the new commitment; *and*

39 (6) *the petitioner shall continue to be responsible to fully satisfy any*
40 *outstanding costs, fees, fines and restitution related to the arrest,*
41 *conviction or diversion. For the purpose of collecting such outstanding*
42 *costs, fees, fines or restitution, the following persons shall have access to*
43 ~~*any documents and information regarding the outstanding costs, fees,*~~

the
expunged
case file

- 1 ~~finer or restitution~~ notwithstanding any expungement:
- 2 (A) The clerk of the court;
- 3 (B) a contracting agent as defined in K.S.A. 20-169, and amendments
- 4 thereto;
- 5 (C) the petitioner and the petitioner's attorney;
- 6 (D) the beneficiary under an order of restitution as defined in K.S.A.
- 7 20-169, and amendments thereto, and such beneficiary's attorney; and
- 8 (E) any other person as authorized by a court order if the court finds
- 9 it is necessary for the person to have access to the documents and
- 10 information for the purpose of collecting the outstanding costs, fees, fines
- 11 or restitution.
- 12 (j) Whenever a person is convicted of a crime, pleads guilty and pays
- 13 a fine for a crime, is placed on parole, postrelease supervision or
- 14 probation, is assigned to a community correctional services program, is
- 15 granted a suspended sentence or is released on conditional release, the
- 16 person shall be informed of the ability to expunge the arrest records or
- 17 conviction. Whenever a person enters into a diversion agreement, the
- 18 person shall be informed of the ability to expunge the diversion.
- 19 (k) (1) Subject to the disclosures required pursuant to subsection (i),
- 20 in any application for employment, license or other civil right or privilege,
- 21 or any appearance as a witness, a person whose arrest records, conviction
- 22 or diversion of a crime has been expunged under this statute may state that
- 23 such person has never been arrested, convicted or diverted of such crime.
- 24 (2) Notwithstanding the provisions of subsection (k)(1), and except as
- 25 provided in K.S.A. 2020 Supp. 21-6304(a)(3)(A), and amendments
- 26 thereto, the expungement of a prior felony conviction does not relieve the
- 27 individual of complying with any state or federal law relating to the use,
- 28 shipment, transportation, receipt or possession of firearms by persons
- 29 previously convicted of a felony.
- 30 (l) Whenever the record of any arrest, conviction or diversion has
- 31 been expunged under the provisions of this section or under the provisions
- 32 of any other existing or former statute, the custodian of the records of
- 33 arrest, conviction, diversion and incarceration relating to that crime shall
- 34 not disclose the existence of such records, except when requested by:
- 35 (1) The person whose record was expunged;
- 36 (2) a private detective agency or a private patrol operator, and the
- 37 request is accompanied by a statement that the request is being made in
- 38 conjunction with an application for employment with such agency or
- 39 operator by the person whose record has been expunged;
- 40 (3) a court, upon a showing of a subsequent conviction of the person
- 41 whose record has been expunged;
- 42 (4) the secretary for aging and disability services, or a designee of the
- 43 secretary, for the purpose of obtaining information relating to employment