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

MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: February 7, 2022

Subject: Bill Brief on HB 2515

HB 2515 creates a mechanism to seek relief from the Kansas offender registration act requirements for drug offenders and allows expungement of offenses when such relief is granted.

Section 2 of the bill amends K.S.A. 22-4908, the statute that currently provides that no person required to register as an offender shall be granted an order relieving the offender of registration requirements. The bill would provide that, except for offenders required to register for an out-of-state conviction or adjudication, a drug offender who is required to register under the Kansas offender registration act may file a verified petition for relief from registration requirements if the offender has registered for a period of at least five years after the date of parole, discharge or release, whichever date is most recent or, if not confined, five years from the date of conviction or adjudication. Offenders required to register for an out-of-state conviction or adjudication would be able to file such petition after the offender would no longer be required to register under the laws of the state or jurisdiction where the conviction or adjudication occurred. Any period of time during which an offender is incarcerated or is not in compliance with the offender registration act shall not count toward the duration of registration needed to file such petition.

A petition for relief shall be filed in the district court in the county where the offender was convicted of the offense giving rise to registration or a county where the offender is required to register in the case of an out-of-state conviction or adjudication. The petition shall include the offender's name, full name at the time of conviction or adjudication, sex, race, date of birth, offense requiring registration, date of conviction, the court in which the offender was convicted, whether the offender has been arrested, convicted or entered into a diversion agreement during the duration of registration and the names of all treatment providers and agencies that have

treated the offender for mental health, substance abuse and offense-related behavior since the offense. The judicial council shall develop a petition form for use under this section. When a petition is filed, the court shall set a date for hearing and give notice to the county or district attorney. Any person who may have relevant information about the offender may testify at the hearing. The county or district attorney shall notify any victim or the victim's family if the victim is deceased. The victim or victim's family shall not be compelled to testify. The county or district attorney shall have access to all applicable records, including otherwise privileged or confidential records. The court may require a risk assessment for any offender who is petitioning for relief. Such assessment shall be performed by a professional agreed to by the parties and at the offender's expense. The court shall order relief from registration requirements if the offender shows by clear and convincing evidence that the offender has not been convicted of a new felony in the immediately preceding five years, the offender's circumstances, behavior and treatment history demonstrate that the offender is sufficiently rehabilitated, and registration of the offender is no longer necessary to promote public safety. If the court denies the petition, the offender shall not file another petition for three years unless a shorter time is ordered by the court. If the court grants the petition, it shall order the offender be removed from the offender registry and the offender will no longer be required to comply with registration requirements. Within 14 days, the court shall notify the Kansas bureau of investigation which shall remove the offender from any internet website maintained pursuant to K.S.A. 22-4909. An offender may combine a petition for relief under this section with a petition for expungement if the offender is otherwise eligible for expungement.

Section 1 amends K.S.A. 21-6614, which is the statute governing expungement. Current law provides that an offender who is required to register shall not be granted expungement of any conviction while the offender is required to register. This bill would add an exception to allow offenders who have been granted relief from the registration requirements under K.S.A. 22-4908 to petition for expungement of that offense.