

## Testimony in Support of HB 2113

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This bill tackles two important issues that can really improve the availability of expungement to Kansans.

### 1) Fines, fees and restitution

This bill nicely lays out a provision that would prevent the denial of expungement before fines, fees and restitution are fully paid in criminal cases. It covers municipal courts, district courts and juvenile courts.

The wisdom of this policy is simple. Studies show that income increases substantially in the first year after expungement. A University of Michigan Law School study in 2020 found that in the first year after expungement a person's wages improve by about 23%. Women and Black study participants saw higher wage increases than white men.

Expungement will allow people more income to make payments on fines, fees and restitution. The current policy that expects full payment prior to the life-changing opportunities of a sealing of criminal records from public view is backwards. This policy gives people the means to actually pay these costs.

A special note regarding restitution. While it is typical to think of restitution as payments to crime victims, it is more likely that these are payments to insurance companies. While the insurance company is certainly entitled to payment, they might be able to wait until the expungement is granted and the person is able to make those payments.

Current law present people with a real problem. The prevalence of prosecutors who will not grant expungements until all fines, fees and restitution is paid is high. My work in this field has lead me to deny legal services to anyone who owes these costs. I have a long list of people who are eligible for expungement, but know that it will be denied because of these unpaid court debts. This bill still requires payment of all fines, fees and restitution. It just doesn't require that before granting an expungement.

This recommendation came out of a Judicial Council Advisory Committee looking at this issue in 2020, relating to district courts. The full report can be found at <https://www.kansasjudicialcouncil.org/Documents/Studies%20and%20Reports/2020%20Reports/Expungement%20Fines%20and%20Fees%20Report.pdf>

In 2021, a different Judicial Council Advisory Committee made a similar recommendation regarding juvenile offender. That report can be found here: <https://www.kansasjudicialcouncil.org/Documents/Studies%20and%20Reports/2021%20Reports/Juvenile%20Expungement%20Study%20Report%20-%20Approved%20by%20JC.pdf>

Both reports were adopted by the full Judicial Council.

## Juvenile Expungement

Dealing with this issue is long overdue. There should be little doubt that obtaining an expungement of a juvenile offense should be easier than an expungement of an adult crime. But, that is not the case. Current language bars expungement of any juvenile charge if ANY convictions exist outside of juvenile court. At present, a person who wants to expunge a juvenile conviction has to work backward, dealing with any adult convictions first and then seeking a sealing of their juvenile record from public view.

The problem with the current law is best exemplified by Ricky (not his real name). He was arrested as a juvenile for a situation occurring at a convenience store. He stole some stuff. He got arrested. One of the things he stole was cigarettes. Juvenile Court does not deal with tobacco infractions. He was prosecuted in a City court for a misdemeanor for stealing the cigarettes. He was prosecuted in Juvenile Court for the other things he stole. He learned his lesson and as a young adult, he wanted to seal his records from public view. The municipal court charge seemed fairly minor to him and unlikely to block future employment. He wasn't concerned about sealing it. But, in order to seal the records in Juvenile Court, under current law, he had to first expunge the City charges. This increased the work and court costs involved in accomplishing his goal. It blocked employment opportunities.

It doesn't need to be this way. This law would continue to allow expungement of juvenile offenses two years after completing the sentence, provided there was no other felony conviction in the prior two years.