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Before the House Judiciary Committee
March 14, 2016

Testimony In Support of Substitute for Senate Bill 22

Submitted by Jay Scott Emler, Chairman
Kansas Judicial Council Municipal Court Manual Committee

Chairman Barker and members of the Committee, thank you for the opportunity to testify this afternoon in support of Substitute for Senate Bill 22. My name is Jay Emler and I am the chair of the Municipal Court Manual Committee of the Kansas Judicial Council.

Senate Bill 22 was drafted by the Municipal Court Manual Advisory Committee and was recommended for passage by the Senate Judiciary Committee in February 2015. The bill was referred back to the Senate Judiciary Committee in January 2016 so that the bill could be updated to reflect statutory changes made in 2015. The result was Substitute for Senate Bill 22, which retains unchanged the Municipal Court Manual Advisory Committee's suggested amendments.

I would like to direct your attention to page 3, lines 36 through 40 of the bill. The Municipal Court Manual Committee, with the consent of the Judicial Council, requested introduction of this amendment to help guarantee defendants were provided the full protection of K.S.A. 12-4516 and 21-6614 regarding expungements of municipal and certain criminal convictions.

If the conviction occurs in municipal court and there is no appeal, the municipal court is able to easily comply with the provisions of K.S.A. 12-4516 and 21-6614. The difficulty arises when an appeal is taken to the district court. The district court sits as a municipal court and hears the evidence *de novo*. The district court is then responsible for reporting the conviction to the appropriate state and federal agencies, but the municipal court may never be advised of the final disposition of the matter. That lack of communication is addressed by new subsection (f) to K.S.A. 22-3609 on page 18 of the bill.

Three, five or ten years after a conviction, depending upon the type of violation, the district court may receive a request for expungement. If the record is expunged, the petitioner is treated as never having been convicted or been on diversion. The district court is again charged with notifying the appropriate state and federal agencies. The district court is not, however, required to notify the municipal court where the conviction first occurred. Therein lies the problem.

Subsequent to the expungement, the municipal court may receive a request for information regarding prior convictions of a person. The municipal court responds to the request and advises there is a conviction. The municipal court should not release the information, but since the court has no knowledge of the expungement, the information is released, thus abrogating the protections offered by K.S.A. 12-4516 and 21-6614.

The solution is simple. It is found in lines 36 through 40 on page 3 and lines 12 through 16 on page 11 of the bill. If the district court expunges the petitioner's record, the clerk of the district court simply sends a certified copy of the expungement order to the municipal court and the municipal court then enters the expungement in its record and the expunged information is not released.

This may not seem like it is very important in the scheme of things, but to the individual who has turned his or her life around, it can be extremely important. It may mean the difference between being employed and not being able to support themselves or their families.

I respectfully request your support for Senate Bill 22 and will be pleased to stand for questions at the appropriate time.

Thank you.