



Municipal Court

Testimony in Opposition to HB 2226
House Judiciary Committee
February 8, 2021
Mellissa Rundus, Chief Prosecutor
City of Manhattan

Chairman Patton and members of the Committee my name is Mellissa Rundus. I am the Chief Prosecutor for the City of Manhattan. I appear here today in opposition to House Bill 2226.

This measure shifts from our current statutory scheme where it is the responsibility of the party seeking expungement to show they fall within the statutory guidelines and that they have changed their behaviors and sustained that change. By placing the responsibility for filing the petition on prosecutors, we are put in the position of affirming in an official document filed with the court that the defendant has or is complying with the statutory requirements for expungement. For example, whether the defendant has committed/been convicted of specific other crimes since satisfaction in the case for which they are requesting expungement. We have no firsthand knowledge regarding the petitioner's having met the requisite requirements for expungement. Our only way of gaining any info for the petition is the Ill, and not all jurisdictions report convictions timely or as required, leaving us with insufficient knowledge upon which to swear to the court that the party seeking expungement has met the necessary requirements to be granted expungement. This leaves us in a precarious position that could result in our unknowingly committing perjury.

House Bill 2226 is not only burdensome on small jurisdictions without full time staff or case tracking/data programs, but also on large offices w/ thousands of cases. It is logistically a Herculean task unaccompanied by funding to support staff or a data tracking program. As you are well aware, our court system is already overworked and prosecutors' offices are suffering from openings across the state, burdened by low pay and daunting responsibility of seeking the truth for Kansas citizens that had been victimized by the acts of another.

As we consider the offender's opportunity to have their criminal record sealed through expungement, we should not forget victims of the crimes perpetrated by that individual. In the interest of justice and transparency this would cause prosecutors across the state to develop another channel of information through which they could notify victims in those cases where victims are involved.

If you have not heard already through testimony of other prosecutors, you should be aware that there are local expungement clinics taking place around the state, with prosecutors and defense counsel helping those seeking expungement to complete their petitions and guide them through the process. The system already offering such opportunities, in addition to the current statutory scheme that provides offenders with a well-established process through which they can seek expungement.

I would remind committee that expungement is a very factual, individual, and case specific process that does not lend itself well to any kind of automatic one-size-fits-all approach. House Bill 2226 while no doubt well intended, should not be advanced by this committee for any further consideration.

Thank you.