

**UPDATED**  
*SESSION OF 2022*

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2556**

As Amended by House Committee on Judiciary

**Brief\***

HB 2556, as amended, would amend law related to expungements.

***Expungement of Convictions, Diversions, and Arrests***

The bill would amend the Kansas Code of Procedure for Municipal Courts and the Kansas Criminal Code to provide that a court shall not deny a petition for expungement due to the petitioner's inability to pay outstanding costs, fees, fines, or restitution. The bill would permit the petitioner's unwillingness, rather than inability, to pay such costs, fees, fines, or restitution to be considered as a factor in denying the petition for expungement.

The bill would state that the petitioner would continue to be responsible for fully satisfying any outstanding costs, fees, fines, and restitution related to the arrest, conviction, or diversion. For the purposes of collecting such outstanding amounts, the bill would provide the following persons with access to the expunged case file notwithstanding any expungement:

- The clerk of the court;
- A contracting agent for collection of court debts or restitution;

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The petitioner and the petitioner's attorney;
- The beneficiary under an order of restitution and such beneficiary's attorney; and
- Any other person as authorized by a court order, if the court finds it is necessary for the person to have access to the expunged case file for the purpose of collecting the outstanding costs, fees, fines, or restitution.

The bill would state that, for purposes of expungement provisions, the determination of when a person satisfies a sentence imposed excludes the payment of costs, fees, fines, and restitution.

### ***Expungement of Juvenile Records***

In the Revised Kansas Juvenile Justice Code, the bill would amend the time period for which other offenses may be considered as disqualifying for expungement (lookback window) and which offenses would be disqualifying. The lookback window would be changed from the period since the final discharge of the juvenile to the past two years, and misdemeanor offenses would be removed as disqualifying offenses within the lookback window.

The bill would prohibit a court from denying a juvenile's petition for expungement due to the juvenile's inability to pay outstanding costs, fees, fines, or restitution. The bill would permit the petitioner's unwillingness, rather than inability, to pay such costs, fees, fines, or restitution to be considered as a factor in denying the petition for expungement. The bill would state that, unless the court orders otherwise, expungement would not release the juvenile from the obligation to pay outstanding costs, fees, fines, or restitution.

The bill also would make technical amendments to ensure consistency in statutory references.

## **Background**

The bill contains the contents of HB 2556 and HB 2557. The background and fiscal information for each bill follows below.

### ***HB 2556***

The bill was introduced by the House Committee on Judiciary at the request of the Kansas Judicial Council.

#### *House Committee on Judiciary*

In the House Committee hearing on February 7, 2022, representatives of ACLU of Kansas, Kansas Judicial Council, and Kansas Legal Services, and a Washburn University law professor testified as **proponents** of the bill, stating the bill would make expungement more accessible to low income people and help them secure housing and stable employment. A representative of the League of Kansas Municipalities provided neutral testimony, stating the bill should include a mechanism for proving inability to pay and be clarified with regard to when a sentence is fully satisfied. No other testimony was provided.

On February 17, 2022, the House Committee amended the bill to add the provisions of HB 2557, regarding juvenile expungement.

On February 23, 2022, HB 2556 was referred to the House Committee on Appropriations. On March 1, 2022, HB 2556 was rereferred to the House Committee.

On March 8, 2022, following an overview of the bill by staff from the Office of Revisor of Statutes, the House Committee recommended the bill favorably for passage as previously amended with the provisions of HB 2557.

## **HB 2557**

The bill was introduced by the House Committee on Judiciary at the request of the Kansas Judicial Council.

### *House Committee on Judiciary*

In the House Committee hearing on February 7, 2022, representatives of ACLU of Kansas, Institute for Justice, Juvenile Law Center, Kansas Judicial Council, Kansas Legal Services, and The Gault Center, and a Washburn University law professor testified as **proponents** of the bill, stating the bill would remove barriers to allow juveniles to live more productively in the community. Representatives of Children's Alliance of Kansas and Kansas Appleseed Center for Law and Justice provided written-only proponent testimony. No other testimony was provided.

## **Fiscal Information**

### **HB 2556**

According to the fiscal note prepared by the Division of the Budget on HB 2556, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts, increasing the time spend by district court personnel and resulting in the collection of additional docket fees. However, a fiscal effect cannot be determined because the number of additional cases cannot be estimated.

The Kansas Sentencing Commission indicates enactment of the bill would have no effect on prison beds. The Office of the Attorney General, Kansas Bureau of Investigation, and Department of Corrections indicate enactment of the bill would have no fiscal effect. Any fiscal effect associated with HB 2556 is not reflected in *The FY 2023 Governor's Budget Report*.

## **HB 2557**

According to the fiscal note prepared by the Division of the Budget on HB 2557, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts, increasing the time spent by district court personnel and resulting in the collection of additional docket fees. A decrease in revenue is also possible if judges waive outstanding fees, costs, fines, and restitution as allowed by the bill. However, a fiscal effect cannot be determined because the number of additional cases, docket fees, or waived fees, costs, fines, and restitution orders cannot be estimated.

The Kansas Sentencing Commission indicates enactment of the bill would have no effect on prison beds. The Kansas Bureau of Investigation and Department of Corrections indicate enactment of the bill would have no fiscal effect. Any fiscal effect associated with HB 2557 is not reflected in *The FY 2023 Governor's Budget Report*.

Expungement; adults; juveniles; costs; fines; fees; restitution