

To: House Corrections and Juvenile Justice Committee

From: John Goodyear, General Counsel

Date: January 31, 2023

RE: Neutral Testimony on HB 2113

We want to thank Chairman Owens and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony on HB 2113.

The League supports efforts to address cycles of indigency and recidivism. That said, we are wary of provisions that eliminate methods to ensure compliance with the statutes, ordinances, and court decisions. Looking to HB 2113, it is our belief that the intent of this bill is to preserve necessary compliance measures while helping certain petitioners expunge conviction, arrest, and diversion records.

Section 1 of the bill amends the statute governing expungements in municipal court and prohibits the court from denying a petition for expungement because of a petitioner's inability to pay outstanding costs, fees, fines, or restitution. It is important for our members that upon expungement, the petitioner would still be responsible for fully satisfying any outstanding obligations and that the expunged case file would still be available to the parties that need access to collect these obligations.

Further, the League supports the distinctions made between "inability to pay" and "unwillingness," still allowing the court to deny an expungement petition if the petitioner has the ability to pay but has chosen not to. A reason for our neutral testimony, however, is that this provision may need to be fleshed out. How does a petitioner demonstrate that they are willing, but unable to pay? It may be prudent to require an affidavit of indigency or some other sworn statement by the individual when they file the petition for expungement.

Finally, it is our belief that the changes made in section 1 of the bill that starts the clock for expungement eligibility to the date of conviction should be reconsidered (see lines 19-21 on page 1 of the bill). Where the only elements of the sentence imposed are financial ones, this change may

make sense, but where the penalty imposed includes jail time, probation, or parole, that clock should not start until those elements of the sentence have been carried out.

As the Committee takes up HB 2113, the League respectfully asks that the method of demonstrating inability to pay and the timing of expungement petitions be considered before making a recommendation to the full House.