

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: January 31, 2023

Subject: Bill Brief on HB 2113

HB 2113 prohibits denial of a petition for expungement due to the petitioner's inability to pay outstanding costs, fees, fines or restitution, provides that the waiting period for expungement starts on the date of conviction or adjudication and authorizes expungement of a juvenile adjudication if the juvenile has not committed a felony offense in the previous two years.

Section 1 amends K.S.A. 12-4516, the expungement statute for municipal court convictions and diversions. Current law allows those convicted to petition the court to have the conviction and related arrest records expunged after a period of time has passed based on the offense after the person (1) satisfied the sentence imposed or (2) was discharged from probation, parole or a suspended sentence. This bill would change the period of time to start at the date of conviction. The section is also amended to provide that a court shall not deny the petition for expungement because of the petitioner's inability to pay outstanding costs, fees, fines or restitution. The petitioner's unwillingness, rather than inability, to pay may be considered as a factor in denying expungement. The petitioner continues to be responsible for fully satisfying any outstanding costs, fees, fines and restitution, and the bill authorizes certain individuals to have access to the expunged records for the purposes of collecting those costs, fees, fines and restitution.

Section 2 amends K.S.A. 21-6614, the expungement statute for district court convictions. Current law allows those convicted to petition the court to have the conviction and related arrest records expunged after a period of time has passed based on the offense after the person (1) satisfied the sentence imposed or (2) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional sentence or a suspended sentence. This bill would change that period of time to start at the date of conviction. The section is also

amended to provide that a court shall not deny the petition for expungement because of the petitioner's inability to pay outstanding costs, fees, fines or restitution. The petitioner's unwillingness, rather than inability, to pay may be considered as a factor in denying expungement. The petitioner continues to be responsible for fully satisfying any outstanding costs, fees, fines and restitution, and the bill authorizes certain individuals to have access to the expunged records for the purposes of collecting those costs, fees, fines and restitution.

Section 3 amends K.S.A. 38-2312, the expungement statute for juvenile adjudications. Current law allows those adjudicated to petition the court to have the adjudication expunged if a certain amount of time has passed since the final discharge and other factors have been met based on the offense. This bill would change the period of time to start at adjudication as opposed to discharge. The section is also amended to provide that a court shall not deny the petition for expungement because of the juvenile's inability to pay outstanding costs, fees, fines or restitution. The petitioner's unwillingness, rather than inability, to pay may be considered as a factor in denying expungement. Unless the court orders otherwise, expungement shall not release the juvenile from the obligation to pay outstanding costs, fees, fines or restitution.

The bill also amends subsection (e)(1) to authorize expungement of a juvenile adjudication if the juvenile has not committed a felony offense in the previous two years and no proceedings are pending seeking such a conviction or adjudication. Current law requires the court to find that since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender and no proceedings are pending seeking such a conviction or adjudication.