

To: House Judiciary Committee

From: John Goodyear, General Counsel

Date: February 7, 2022

RE: Neutral Testimony on HB 2556

We want to thank Chairman Patton and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony on HB 2556.

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 2556, it is our belief that this bill will 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. The reason for our neutral testimony today is that this provision may need to be fleshed out. How does a petitioner demonstrate that they are willing, but unable to pay? For one, the court would have access to any payment plan entered into by the petitioner and could see what payments have been made on that plan. It also would be prudent to require an affidavit of indigency or some other sworn statement by the individual when they file the petition for expungement.

The League also believes that the timing of a petition for expungement needs to be addressed now that subsection (m) excludes the payment of these obligations when determining whether a person

has satisfied their sentence. Where fines and fees are the only elements of the sentence, would the clock start on the day that the order was made?

As the Committee takes up HB 2556, 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.