

## HOUSE BILL No. 2637

By Committee on Judiciary

2-11

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1 AN ACT concerning the protection from stalking act; concerning  
2 expungement of records.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Any person against whom a petition for a protection  
6 from stalking order was filed pursuant to K.S.A. 2013 Supp. 60-31a04,  
7 and amendments thereto, and no protection from stalking order was issued  
8 pursuant to K.S.A. 2013 Supp. 60-31a06, and amendments thereto, may  
9 petition the district court for the expungement of the official court file  
10 related to such petition for a protection from stalking order.

11 (b) When a petition for expungement is filed, the court shall set a date  
12 for hearing on such petition and shall cause notice of such hearing to be  
13 given to the plaintiff or the plaintiff's attorney, if any. When a petition for  
14 expungement is filed, the official court file shall be separated from the  
15 other records of the court, and shall be disclosed only to a judge of the  
16 court and members of the staff of the court designated by a judge of the  
17 district court, the plaintiff, or any other person when authorized by a court  
18 order, subject to any conditions imposed by the order. Except as otherwise  
19 provided by law, a petition for expungement shall be accompanied by a  
20 docket fee in the amount of \$100. Except as provided further, the docket  
21 fee established in this section shall be the only fee collected or moneys in  
22 the nature of a fee collected for the docket fee. Such fee shall only be  
23 established by an act of the legislature and no other authority is established  
24 by law or otherwise to collect a fee. On and after July 1, 2014, through  
25 July 1, 2015, the supreme court may impose an additional charge, not to  
26 exceed \$19 per docket fee, to fund the costs of non-judicial personnel. The  
27 petition shall state:

- 28 (1) The petitioner's full name;  
29 (2) the full name of the petitioner at the time the petition for a  
30 protection from stalking order was filed against them or a temporary relief  
31 order was issued against them, if different than the petitioner's current  
32 name;  
33 (3) the petitioner's sex, race and date of birth;  
34 (4) the name of the plaintiff who filed the petition for a protection  
35 from stalking order; and  
36 (5) the date the petition for a protection from stalking order was filed.

1 No surcharge or fee shall be imposed to any person filing a petition  
2 pursuant to this section against whom a petition for a protection from  
3 stalking order was filed and no protection from stalking order was issued.  
4 Any person who may have relevant information about the petitioner may  
5 testify at the hearing. The court may inquire into the background of the  
6 petitioner.

7 (c) At the hearing on a petition for expungement, the court shall order  
8 the official court file related to the petition for a protection from stalking  
9 order expunged upon finding:

10 (1) The petition for a protection from stalking order was filed because  
11 of mistaken identity;

12 (2) there was no good cause shown for a temporary relief order to be  
13 issued;

14 (3) the expungement would be in the best interests of justice and the  
15 petition has been dismissed; or

16 (4) no protection from stalking order was issued pursuant to K.S.A.  
17 60-31a06, and amendments thereto.

18 (d) When the court has ordered expungement, the order shall state the  
19 information required to be stated in the petition and shall state the grounds  
20 for expungement under subsection (c). If an order of expungement is  
21 entered, the petitioner shall be treated as though a petition for a protection  
22 from stalking order had never been filed.

23 (e) If an order of expungement is entered, the court shall determine  
24 whether, in the interests of public welfare, the records should be available  
25 for any of the following purposes:

26 (1) In any application for employment as a detective with a  
27 private detective agency,

28 as defined in K.S.A. 75-7b01, and amendments thereto; as security  
29 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,  
30 and amendments thereto; or with an institution, as defined in K.S.A. 76-  
31 12a01, and amendments thereto, of the Kansas department for aging and  
32 disability services;

33 (2) in any application for admission, or for an order of  
34 reinstatement, to  
35 the practice of law in this state;

36 (3) to aid in determining the petitioner's qualifications for  
37 employment with the Kansas lottery or for work in sensitive areas within  
38 the Kansas lottery as deemed appropriate by the executive director of the  
39 Kansas lottery;

40 (4) to aid in determining the petitioner's qualifications for  
41 executive director of the Kansas racing commission, for employment with  
42 the commission or for work in sensitive areas in parimutuel racing as  
43 deemed appropriate by the executive director of the commission, or to aid

1 in determining qualifications for licensure or renewal of licensure by the  
2 commission;

3 (5) in any application for a commercial driver's license under  
4 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

5 (6) to aid in determining the petitioner's qualifications to be an  
6 employee of the state gaming agency;

7 (7) to aid in determining the petitioner's qualifications to be an  
8 employee of a tribal gaming commission or to hold a license issued  
9 pursuant to a tribal-state gaming compact; or

10 (8) in any other circumstances which the court deems appropriate.

11 (g) Subject to any disclosures required under subsection (e), in any  
12 application for employment, license or other civil right or privilege, or any  
13 appearance as a witness, a person granted an order of expungement as  
14 provided in this section may state that no protection from stalking petition  
15 or temporary relief order has been filed or entered against them.

16 (h) Whenever an order of expungement is entered as provided in this  
17 section, the custodian of records related to the official court file expunged  
18 shall not disclose any information related to such file, except as directed  
19 by the order of expungement or when requested by the person who was  
20 granted such order of expungement.

21 (i) The docket fee collected at the time the petition for expungement  
22 is filed shall be disbursed in accordance with K.S.A. 20-362, and  
23 amendments thereto.

24 (j) This section shall be part of and supplemental to the Kansas  
25 protection from stalking act.

26 Sec. 2. This act shall take effect and be in force from and after its  
27 publication in the statute book.