

**HOUSE BILL No. 2113**

By Joint Committee on Corrections and Juvenile Justice Oversight

1-20

Proposed Amendments to HB 2113 - technical  
House Corrections and Juvenile Justice  
Prepared by the Office of Revisor of Statutes  
February 2, 2023

1 AN ACT concerning expungement; relating to expungement under the  
2 Kansas code of procedure for municipal courts, the Kansas criminal  
3 code and the revised Kansas juvenile justice code; prohibiting denial of  
4 a petition for expungement due to the petitioner's inability to pay  
5 outstanding costs, fees, fines or restitution; providing that the waiting  
6 period for expungement starts on the date of conviction or adjudication;  
7 authorizing expungement of a juvenile adjudication if the juvenile has  
8 not committed a felony offense in the previous two years; amending  
9 K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614 and  
10 repealing the existing sections.

11

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

13 Section 1. K.S.A. 12-4516 is hereby amended to read as follows: 12-  
14 4516. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any  
15 person ~~who has been~~ convicted of a violation of a city ordinance of this  
16 state may petition the convicting court for the expungement of such  
17 conviction and related arrest records if three or more years have elapsed  
18 since the person:

19 ~~(A) Satisfied the sentence imposed; or~~

20 ~~(B) was discharged from probation, parole or a suspended sentence~~  
21 ~~was convicted of such violation.~~

22 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any  
23 person who has fulfilled the terms of a diversion agreement based on a  
24 violation of a city ordinance of this state may petition the court for the  
25 expungement of such diversion agreement and related arrest records if  
26 three or more years have elapsed since the terms of the diversion  
27 agreement were fulfilled.

28 (b) Any person convicted of a violation of any ordinance that is  
29 prohibited by either K.S.A. 12-16,134(a) or (b), and amendments thereto,  
30 and ~~which~~ *that* was adopted prior to July 1, 2014, or who entered into a  
31 diversion agreement in lieu of further criminal proceedings for such  
32 violation, may petition the convicting court for the expungement of such  
33 conviction or diversion agreement and related arrest records.

34 (c) Any person convicted of the violation of a city ordinance ~~which~~  
35 *that* would also constitute a violation of K.S.A. 21-3512, prior to its repeal,  
36 or a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto, or

1 employee of the state gaming agency;  
 2 (H) to aid in determining the petitioner's qualifications to be an  
 3 employee of a tribal gaming commission or to hold a license issued  
 4 pursuant to a tribal-state gaming compact;  
 5 (I) in any application for registration as a broker-dealer, agent,  
 6 investment adviser or investment adviser representative all as defined in  
 7 K.S.A. 17-12a102, and amendments thereto;  
 8 (J) in any application for employment as a law enforcement officer as  
 9 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or  
 10 (K) to aid in determining the petitioner's qualifications for a license to  
 11 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-  
 12 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and  
 13 amendments thereto;  
 14 (3) the court, in the order of expungement, may specify other  
 15 circumstances under which the conviction is to be disclosed;  
 16 (4) the conviction may be disclosed in a subsequent prosecution for  
 17 an offense that requires as an element of such offense a prior conviction of  
 18 the type expunged; ~~and~~  
 19 (5) upon commitment to the custody of the secretary of corrections,  
 20 any previously expunged record in the possession of the secretary of  
 21 corrections may be reinstated and the expungement disregarded, and the  
 22 record continued for the purpose of the new commitment; *and*  
 23 *(6) the petitioner shall continue to be responsible for fully satisfying*  
 24 *any outstanding costs, fees, fines and restitution related to the arrest,*  
 25 *conviction or diversion. For the purpose of collecting such outstanding*  
 26 *costs, fees, fines or restitution, the following persons shall have access to*  
 27 *the expunged case file notwithstanding any expungement:*  
 28 *(A) The clerk of the court;*  
 29 *(B) a contracting agent as defined in K.S.A. ~~12-4119~~, and*  
 30 *amendments thereto;*  
 31 *(C) the petitioner and the petitioner's attorney;*  
 32 *(D) ~~the beneficiary under an order of restitution as defined in K.S.A.~~*  
 33 *~~12-4119~~, and amendments thereto, and such beneficiary's attorney; and*  
 34 *(E) any other person as authorized by a court order if the court finds*  
 35 *it is necessary for the person to have access to the expunged case file for*  
 36 *the purpose of collecting the outstanding costs, fees, fines or restitution.*  
 37 (j) Whenever a person is convicted of a crime, pleads guilty and pays  
 38 a fine for a crime, is placed on parole, postrelease supervision or  
 39 probation, is assigned to a community correctional services program, is  
 40 granted a suspended sentence or is released on conditional release, the  
 41 person shall be informed of the ability to expunge the arrest records or  
 42 conviction. Whenever a person enters into a diversion agreement, the  
 43 person shall be informed of the ability to expunge the diversion.

20-169