

To: The House Committee on Judiciary
From: The City of Olathe
Subject: Testimony in opposition to HB 2226
Date: February 8, 2021



Dear Chair Patton, Vice Chair Ralph, Ranking Member Carmichael, and Committee Members,

Please consider this letter our testimony in opposition to House Bill 2226. We oppose this bill because it is overly broad and burdensome on municipal courts and prosecutors. It would greatly reduce the efficacy and efficiency of our municipal court.

House Bill 2226 requires that municipal prosecutors track all convictions and make motions for expungement three years after conviction. This bill would impose significant burdens on the court and prosecutors, while prohibiting the fees that are used to offset these burdens. Current law allows people convicted of offenses in municipal court to petition the court for expungement if certain requirements are met. We believe that the current law is a fair and efficient way to handle expungements.

The Olathe municipal court currently process thousands of cases each year. We do not currently have a process in place to track and expunge all convictions at the three-year mark. This would create a heavy administrative burden and an unfunded mandate for the City. Expungements are a time-consuming task for municipal court staff. To comply with this bill, we would need to create a system to track every single case for three years after completion. At that point we would be required to file a petition to expunge on behalf of the defendant, which creates an ethical conflict of interest issue for prosecutors as they are normally on the opposite side of the case from the defendant. It is not the job of prosecutors to act on behalf of defendants in clearing their records.

Each expungement would need to be adjudicated by a judge. Even if the expungement is “automatic” it still must be formally be processed by us and the Court, which would bog down all other proceedings immensely. These burdens would require at least one additional prosecutor but maybe more, plus additional clerical staff and changes to the existing software platform to track cases three years after termination and then to review them again. This bill would be incredibly burdensome to the municipal court staff, the prosecutors, and the municipal judge. The additional staff alone would likely increase municipal budget needs by six figures for the prosecutor’s office alone. The cost of expungement should be borne by the person seeking to clear their record.

In conclusion, this bill creates an ethical problem for prosecutors as attorneys, it requires substantial increases in staff, it creates extra administrative burdens for the municipal court, and it bans the fees used to offset these burdens.

For the above reasons we express our opposition to House Bill 2226 and ask you to not advance the bill. Please feel free to contact Assistant City Attorney Daniel Yoza if you have questions or would like further information. He can be reached at (913) 971-8946 or dayoza@olatheks.org.