



Legislative Committee

HB 2028
House Judiciary Committee
Proponent Testimony
January 25, 2023

Chairman Patton and Members of the Committee:

The Kansas State Board of Indigents' Defense (BIDS) provides defense counsel for people who have been charged with felonies and cannot afford an attorney. We represent 85% of adults charged with felonies across the state. Between our public defender offices and appointed counsel, we work to protect the constitutional rights of some of the most vulnerable populations in every county. The BIDS Legislative Committee was established to advocate on legislative matters consistent with the goals of a zealous and holistic defense of indigent people.

The BIDS Legislative Committee strongly supports the passage of HB 2028.

This bill creates a process by which arrests and dismissals can be automatically expunged without increased costs and efforts to those who were accused. While our current statutory model does allow for the expungement of certain crimes, this process can be cumbersome and challenging. Under the current laws, it can cost several hundred dollars and valuable time to have these records removed from the public sphere. This is particularly problematic for our clientele, who have limited access to both of these resources. In addition to a filing fee, the need to take time off of work and travel to the local district courthouse to complete and file an application for expungement can create an insurmountable burden to expungement. This disproportionately affects those most at risk of suffering the negative side effects that come with a criminal record.

Criminal convictions of any kind come with a whole host of negative stereotypes and connotations. While the proposed bill does not address criminal convictions it is important to remember that even the appearance of a criminal record can create a situation that makes it difficult for someone who has been accused of a crime to escape from. We have a false narrative that people who get their charges dismissed must have done something wrong but got away with it "on a technicality" but this isn't often true. These cases are dismissed because of government overreach. They are dismissed because of government misconduct. Most importantly, they are dismissed because innocent people are frequently arrested and charged with crimes they did not commit. We live in an environment where people are derided for asserting their constitutionally protected rights. Additional steps must be taken to protect those who have been accused. These troubling attitudes can be

devastating to someone's ability to find and maintain gainful employment. It can also affect someone's ability to apply for and secure safe, affordable housing.

Our criminal justice system is based on the presumption that everyone is innocent unless proven guilty. However, this is not reflected in how people accused of crimes are treated. This is especially true for those that we represent who have to fight their charges while also trying to keep their heads above water and survive the poverty that qualifies them from our services. Upon being arrested and charged with a crime our clients are regularly detained for months, if not years, at a time because they simply cannot afford to make bond. These are overwhelmingly people who are charged with low-level, non-violent felonies. Even if a case is dismissed long before it makes it to trial, the damage to our client's lives has already been done. After being in jail for so long, they are released only to find that they have lost their home, their job, their vehicles, and on occasion, even custody of their children. Their lives have been destroyed for no other reason than they were arrested for a crime they did not commit and they were not able to afford to pay to get out of jail.

These are the people who would be most affected by the passage of a bill such as this. In the event that the charges against them are dropped and their case is dismissed, they will have to find a new place to live. They will have to find a job and go about the business of trying to put their lives back together. The ability of a potential employer to search the internet and find a full record of what crime they were accused of committing creates a situation where they will continue to be harmed by the allegations that they did something wrong. While it is impossible to quantify exactly how much the impact of this discovery will have on a person's housing and employment prospects, any impact is too much in a system where the mere accusation of criminal conduct is supposed to come with an assumption of innocence.

These are people who want nothing more than to live their lives in peace. These are people who can be good parents and maintain stable families. They want to have a safe and comfortable place to build their lives. These are people who want to work. Passage of this bill would help them to meaningfully contribute to our state.

It is for these reasons that we strongly support the passage of HB 2028.

Sincerely submitted on behalf of the BIDS Legislative Committee,

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