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HB 2113 Proponent Testimony

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House Corrections and Juvenile Justice
Committee

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Committee Chair and Members of the Committee,

My name is Aileen Berquist and I am the Policy Director for the American Civil Liberties Union of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the civil rights and liberties of every person in our state. Thank you for the opportunity to present testimony today.

The ACLU of Kansas supports HB 2113, prohibiting the denial of expungement due to a inability to pay fines and fees for adults and juveniles. Involvement in the criminal legal system can lead to thousands of dollars in debt. For adults, this is a heavy burden, and for young people it is an insurmountable barrier that follows them well into adulthood.ⁱ This body should be committed to equal justice under the law—including equal justice in spite of financial means to qualify for an expungement. For this reason, we support HB 2113.

The stigma associated with a criminal record is difficult enough, but the loss of opportunity that comes with a criminal record can have a huge impact on recidivism. Consistent employment, access to education, secure housing—these are all critical factors to improve post-conviction reintegration into society. Expungement is an opportunity to truly put your past behind you. And expungement has no negative impact on public safety—people who received expungements have a very low subsequent crime rate, one comparable with the general population.ⁱ

Despite the positive implications for individuals and society at large, expungement is unavailable to many people because of their inability to pay fines and fees. On its own, criminal justice debt is a major barrier to post-conviction success.ⁱⁱ In isolation, some of these costs may seem small but together they escalate into hundreds and thousands of dollars. This debt leads to a cycle of more debt with late fees, payment plan fees, and surcharge fees added on. The cost compounds and can become insurmountable.ⁱⁱⁱ Add in the inability to access relief like expungements, and the punishment without purpose continues.

Our constitution guarantees equal treatment under the law. Blocking some people from remedies like expungement because of their financial means is the definition of unequal treatment.

Allowing petitioners to qualify for expungement regardless of their inability to court pay is the right decision

However, we ask that this bill be amended to increase its positive impact on two fronts: striking the “unwillingness to pay” language and removing all application fees, assessment fees, or other costs associated with applying for or receiving expungement. Adding additional costs onto a process that is specifically created for people without the ability to pay their existing criminal legal debt is counterintuitive. Additionally, “unwillingness to pay” is rife for subjective interpretation that opens the window for overt bias.

We ask that this bill move out of this committee with the removal of any language about “unwillingness to pay.” Thank you for the opportunity to provide testimony today.

ⁱ <https://repository.law.umich.edu/articles/2165/>

ⁱⁱ <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>

ⁱⁱⁱ <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>