S T A T E O F T E N N E S S E E
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January 19, 2006

Opinion No. 06-015

Procedure for Expungement of Divorce Records

QUESTION

What is the proper procedure for the clerk of the court to follow when presented with an order to expunge divorce records pursuant to Tenn. Code Ann. § 36-4-127.

OPINION

When presented with an order to expunge divorce records pursuant to Tenn. Code Ann. § 36-4-127, the clerk of the court must destroy or obliterate the records.

ANALYSIS

In Tennessee, parties to a divorce proceeding, who have reconciled and dismissed their action, may file a petition requesting expungement of their divorce records:

> Parties to any divorce proceeding, who have reconciled and dismissed their cause of action, may thereafter file an agreed sworn petition signed by both parties and notarized, requesting expungement of their divorce records. Upon the filing of such petition, the judge shall issue an order directing the clerk to expunge all records pertaining to such divorce proceedings, once all court costs have been paid. The clerk shall receive a fee of fifty dollars ($50.00) for performing such clerk's duties under this section.

Tenn. Code Ann. § 36-4-127.

Black's Law Dictionary defines "expunge" as "[t]o erase or destroy." Black's Law Dictionary 477 (Abridged 7th ed. 2000). The Tennessee General Manual for Clerks of Courts defines "expungement" as the "actual deletion of some records so that they no longer exist within the system." Tenn. General Manual for Clerks of Courts 102 (Revised May 2001), *available at* http://www.tsc.state.tn.us/geninfo/courtclerks/clerks.htm. In addition, this Office has previously opined that an expungement order means "destruction or obliteration" of the records subject to the

order. Op. Tenn. Att'y Gen. No. 00-058 (Mar. 31, 2000) (citing Op. Tenn. Att'y Gen. No. 79-539 (Dec. 21, 1979)). Accordingly, section 36-4-127 demands that upon receipt of an order to expunge divorce records, the clerk must destroy or obliterate the records.

Section 36-4-127 does not describe any procedure for expungement. In addition, there is no other authority dictating such procedure. Therefore, we conclude that this section only demands that the clerk destroy or obliterate the divorce records; there is no one proper procedure to accomplish this end.

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