

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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January 18, 2011

Opinion No. 11-9

Confidentiality of Orders of Protection

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**QUESTIONS**

1. Are orders of protection confidential?
2. If orders of protection are not confidential, can dismissed orders of protection be expunged?

**OPINIONS**

1. Orders of protection are not confidential; however, identifying information including home and work addresses, home and work telephone numbers, social security numbers, and any other information that could reasonably be used to determine the whereabouts of an individual may be treated as confidential upon request of the victim.

2. Tennessee law does not currently allow a previously issued order of protection to be removed from public records even if the order is later dismissed. However, all public records concerning any petition for an order of protection that has been denied following a hearing are to be removed and destroyed upon the application of the respondent.

**ANALYSIS**

1. Tennessee Code Annotated § 36-3-601 *et seq.*, commonly referred to as the domestic abuse statute, was enacted to provide domestic abuse victims with enhanced protections from domestic abuse, and to ensure the enforcement of the domestic abuse laws to protect victims from further abuse. Tenn. Code Ann. § 36-3-618. Tennessee law provides that “any domestic abuse victim, stalking victim or sexual assault victim who has been subjected to, threatened with, or placed in fear of, domestic abuse, stalking, or sexual assault” may file a sworn petition alleging domestic abuse, sexual abuse or stalking by the respondent. Tenn. Code Ann. § 36-3-602(a).

After the victim has filed a petition, the court may either immediately issue an ex parte order of protection and set the matter for a hearing within fifteen days, or schedule the matter for

a hearing within a reasonable amount of time if an ex parte order is not entered. Tenn. Code Ann. § 36-3-605(a) & (b). At the hearing, the victim has the burden of proving the allegations of domestic abuse by a preponderance of the evidence. Tenn. Code Ann. § 36-3-605(b). If the court finds that the victim has proven the allegations of domestic abuse, it will issue an order of protection that will be distributed to the victim, the respondent and local law enforcement agencies serving in the area of the petitioner's residence. Tenn. Code Ann. §§ 36-3-606 & -609(e). By definition, an order of protection is a public record. Tenn. Code Ann. § 10-7-403(2). However, "identifying information" in an order of protection including home and work addresses, home and work telephone numbers, social security numbers and "any other information that could reasonably be used to locate the whereabouts of an individual" may be treated as confidential by the records custodian. Tenn. Code Ann. § 10-7-504(a)(16). In order to have the information treated as confidential, the victim must take the following action:

a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such persons seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

Tenn. Code Ann. § 10-7-504(a)(16)(C).

As this review of the relevant statutes shows, an order of protection is not confidential and any information within that document is a matter of public record. However, information in an order that could be used by a respondent to locate a victim may be made confidential at the victim's request.

2. You have also asked whether current Tennessee law allows for an order of protection to be expunged from public records upon dismissal. Tennessee Code Annotated § 40-32-101 governs the destruction or release of public records and provides the following concerning orders of protection:

All public records concerning an order of protection authorized by title 36, chapter 3, part 6, which was successfully defended and denied by the court following a hearing conducted pursuant to § 36-3-605, shall, upon petition by that person to the court denying the order, be removed and destroyed without cost to the person.

Tenn. Code Ann. § 40-32-101(a)(5). According to the plain meaning of the statute, Tennessee law provides for the removal of all public records concerning a petition for an order of protection that is denied by the court. Tennessee law does not, however, provide for the expunction of an order of protection once it has been issued by a court even if the order is later dismissed.

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