



## Tip of the Month June 2015

### Criminal Expungement HotDocs Document Assembly Tool Update

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Since passage of the new expungement law, we have been working in partnership with Legal Services State Support and the Council on Crime and Justice to reprogram the HotDocs criminal expungement document assembly tool (HotDocs). This tool guides the user through compiling criminal expungement pleadings using a fill in the blank style format. It relies on pre-programmed conclusions about the user's inputs to select the appropriate legal grounds for relief and to generate the necessary pleadings. HotDocs generates the pleadings in Microsoft Word, allowing the user to make any necessary edits and changes before printing. It is an efficient way to generate pleadings for a single case, but it pays dividends in *hours* saved when compiling pleadings for multiple cases.

### Using HotDocs

HotDocs is a web-based tool intended for use by pro bono lawyers to help low-income clients. Law Help Interactive hosts the tool, and it is accessible through the pro bono website [www.ProJusticeMN.org](http://www.ProJusticeMN.org). Both sites require the user to create an account. First, sign up for an account at ProJustice, which will require approval. Upon approval, access the link to HotDocs in the Criminal Expungement section of the ProJustice Law Library. Sign up for an account with Law Help Interactive before beginning to use the tool, so you can save your work; failure to sign up before beginning results in the inability to save and loss of all of the work.

Once you have access to HotDocs, you can open the tool and proceed through the guided interview. It will prompt you to fill in data about the client and about the client's case. Navigate within the interview by clicking "Next" or by using the "Interview Outline" toolbar on the left side of the screen (see screenshot below). Save your work frequently by clicking the disc icon in the upper right hand corner. When finished, click the "Finish" button in the bottom right corner, save your work one last time, and then automatically generate your pleadings.

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#### Criminal Expungement (2015)

**Interview Outline**

- Introduction
- Client Information
- Criminal Record
- Cases to be Expunged
- Fee Waiver Request

**Client Information**

**Enter your client's basic information.**

First Name:  Middle Name:  Last Name:

List any other names that occur in any official documents, including aliases, former names, and misspellings of the client's name.

Date of Birth:

**If your client has any other birth dates listed in the records, type them in the spreadsheet below.**  
To add more than three alternative birth dates, click "Insert Row."

Alternative Birth Dates
1 <input type="text"/>

Provide necessary explanations for any alternative birth dates:

**Enter the client's current address.**  
Street Address:

Navigation:

It typically takes six to eight months to help a client complete a criminal expungement,<sup>1</sup> but it may only take five to ten hours of work during that time when using HotDocs. Meet with the client to outline representation, gather records, and obtain other information about the client's case and criminal history. Then, begin working on the pleadings (using HotDocs) and meet with the client to generate personal and detailed statements about how the records are causing a burden in the client's life, how s/he has rehabilitated, and why the records should no longer be used against the client. HotDocs will generate the pleadings for the client to sign, and you will serve and file the pleadings. You and the client will have a brief court appearance, after which the judge will decide whether to expunge the records. Upon receiving the judge's order, review it with the client, provide any necessary follow up services (i.e. letters to screening agencies), and conclude representation.

### Practice Tips:

- ❖ Familiarize yourself with the expungement pleadings and HotDocs before sitting down with the client.
  - ✓ You can access the form pleadings on the "Court Forms" section of the Minnesota Courts' website, or by clicking [here](#).
- ❖ Gather information from the client in advance, and enter as much of it as possible into HotDocs. Meet with the client to complete the remainder of the HotDocs interview, verifying and entering data as you go.
  - ✓ Depending on the number of cases and the amount of information needed, this meeting could last two to three hours.
- ❖ By the end of the meeting, you will be able to generate the pleadings in Word format to review and edit as needed. After finalizing the paperwork and having the client sign the appropriate documents, you will be ready to serve and file the pleadings.

## Expungement Pleadings

Filing for a criminal expungement requires many copies of numerous documents, even when seeking expungement of a dismissed case. Each of the pleadings must display the caption, and many of the documents incorporate information from the petition, which results in duplicative data entry. HotDocs allows the user to input the information once and the program populates the information throughout the pleadings, saving the user from having to repetitively reenter data. We have pre-programmed HotDocs to generate addresses and automatically determine the grounds for expungement of each case, providing explanations and links to resources as needed, to help the user learn as s/he walks through the process of developing a case for expungement. HotDocs saves time and enables the user to learn expungement on the fly while working through cases with a client.

### Petition

The person seeking an expungement must submit a petition that outlines the details of the original criminal case, the person's full criminal history, and reasons for seeking expungement, among other information. HotDocs prompts the user to enter all necessary information related to the case, and it produces a completed petition using the Minnesota Courts' form pleading and citing appropriate legal grounds for relief.

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<sup>1</sup> Minn. Stat. § 609A.03 requires two sixty day wait periods. The petitioner must serve the petition and proposed order on all agencies whose records may be affected by the expungement order at least sixty days in advance of the court hearing. There is a sixty day appeal period following the judge's order.

### Practice Tips:

- ❖ HotDocs will generate the petition with raw formatting; the user should always edit the documents and correct any formatting, grammatical, or spelling errors before submitting the pleadings.
  - ✓ The signature block sometimes lands on a page by itself; some courts require the signature to be on the page with some writing, so change spacing to accommodate this.
- ❖ The petition will contain necessary language taken from the Courts' form that incorporates requirements from Minn. Stat. § 609A.02 and 609A.03. Take care not to alter or delete this language.

### Proposed Order

By statute, the petitioner is required to submit a proposed order with the petition.<sup>2</sup> HotDocs produces the Courts' form order that corresponds to the user-selected grounds for relief. This order contains blanks and checkboxes for the judge to complete when making his/her decision. However, Judges commonly use their own orders, instead of completing the fill in the blank form pleading.

#### Practice Tip:

- ❖ The proposed order can serve as a tool to encourage the judge to accept your argument, so consider drafting the proposed order to incorporate your preferred findings of fact and conclusions of law.<sup>3</sup>

### Proof of Service

The petitioner must submit proof that s/he has served all agencies whose records would be affected by the judge's order. HotDocs generates the Courts' Proof of Service form complete with the full list of agencies relevant to the petitioner's case and including their addresses. Some agencies will be relevant in all cases, and the tool will prompt the user to decide whether to include agencies that are less commonly relevant to the case.

#### Practice Tips:

- ❖ HotDocs will automatically enter the addresses for all county agencies and some city agencies listed on the proof of service; we maintain a database of these addresses and try to keep it up to date. As a best practice, always confirm the addresses before serving the pleadings, and let VLN know if you notice an address that is no longer correct so we can update the database.
- ❖ If the person has ever been disqualified by the Department of Human Services for a position working in contact with vulnerable people, or if s/he ever intends to work in such a position, discuss adding and serving the Department of Human Services and Department of Health.<sup>4</sup>

## HotDocs Testing and Release

HotDocs is currently in the beta testing stage and set for full release in July. It is operable but may still contain some programming bugs or generate pleadings with some formatting issues. If you wish to use the tool during this time, you may access it [here](#). **Be vigilant about reviewing the pleadings.** Particularly, ensure the tool has: selected the appropriate grounds for relief, generated the appropriate pleadings, input all of the necessary data, and generated the correct addresses on the Proof of Service. Please contact me if you identify changes that need to be made: Chris Hanrahan, [chris@vlmn.org](mailto:chris@vlmn.org), (612) 752-6649.

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<sup>2</sup> The benches in Hennepin and Ramsey County have issued standing orders relieving petitioners of the need to submit a proposed order.

<sup>3</sup> You may also wish to submit a memorandum outlining the client's case and presenting arguments in favor of expungement.

<sup>4</sup> This includes positions such as nurses, teachers, or other direct-contact positions, but may also apply to custodial, food service, volunteer, and other positions in facilities serving protected populations. See Minn. Stat. § 245C.03.