



Tip of the Month January 2013 Filing for Criminal Expungement as a VLN Volunteer

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The process of helping a client obtain an expungement of criminal records in Minnesota can be broken down into the following three phases:

Preparing the client: First, you will meet with your client to outline your representation and get to know his situation and goals. You will analyze a client's case and determine what paperwork will need to be gathered prior to creating the petition. Experienced attorneys screen all potential clients, so as a VLN volunteer, you will not be asked to take a case until we have already made the determination that a client has a reasonable basis for requesting expungement.¹

Creating the Petition: Next, you must generate the petition to be filed with the court. This is the most involved portion of the process, and the most important. Fortunately for you, as a VLN volunteer you have access to our award-winning² HotDocs tool, which can generate a petition and all additional materials for you to serve and file. For more details, see below.

Attending the Hearing: Finally, you will attend a hearing with your client. Primarily, the judge will inquire about the circumstances surrounding the offense and the client's rehabilitative efforts. These hearings tend to be low pressure and brief, lasting only about 10-25 minutes per case. You will present the case, but the judge will likely speak directly to your client as well.

For each of these phases, VLN offers a myriad of support tools. The greatest in the criminal expungement field is our HotDocs tool, and the remainder of this tip will focus on it.

What is HotDocs?

The criminal expungement HotDocs tool was developed in a collaboration between VLN, Minnesota Legal Services Coalition, and the Council on Crime and Justice. It is an online application that takes volunteer attorneys through a guided interview with their clients, gathering

¹ But if you'd like to get involved in finding new clients, talk to us about helping out at one of our seminars!

² The Law Technology News named the project the "Most Innovative Use of Technology in a Pro Bono Project"

all of the data relevant to requesting a criminal expungement. The tool then creates a complete petition and supporting documents customized to the needs of the client.

How to Access HotDocs

The HotDocs tool is hosted by Law Help Interactive and Pro Justice Minnesota, so you will need to create user accounts on each of their websites. Because you are a VLN volunteer, you qualify to create accounts with both websites. First, go to www.projusticemn.org and select “Join ProJusticeMN” from the top of the left-hand menu. Your application will need to be reviewed, so make sure you sign up at least a day or two before you want to use the HotDocs tool. Once approved, you will have access to a wealth of criminal expungement materials in the Pro Justice online library, including the link to the HotDocs tool.

Log in to your new account at Pro Justice and click the following links: Library → Criminal Expungement → Criminal Expungement Start-to-Finish: Automated Court Form Assembly Interviews and Expungement Handbook → Step 2: Pleadings for Requesting Expungement of Criminal Records. This will take you to Law Help Interactive. On the right side of the page, click “Sign Up” and create an account here, as well. Approval is immediate; once complete, you can begin using the HotDocs tool.

The Guided Interview

Have your client present and launch the HotDocs tool to begin an interview as guided by the program.

Thorough—The tool explores step-by-step the client’s personal information, case details, expungement goals, rehabilitation and burden statements, and even fee waiver requests.

Dynamic—The answers you provide will sometimes spark additional lines of questioning, ensuring that you and the client will spend only the time and effort needed to establish each fact that pertains to the kind of expungement you will be seeking.

Easy to Use—For volunteers less familiar with the field of criminal expungement, throughout the interview there are links to additional information that can help relieve confusion about what is being asked (e.g. the difference between a case and a charge when trying to determine how many cases need to be reported).

Automatically Generated Pleadings

Once the interview is complete, the HotDocs tool automatically translates all of the information gathered into pleadings that may immediately be printed, signed, and filed.

Complete—The HotDocs tool will create not just the petition itself, but also client-tailored proposed orders, certificates of representation, affidavits of service, fee waiver requests, cover letters, and supporting affidavits, as needed. Everything that needs to be filed and served is included.

Adaptive—Not all cases need the exact same information, and certainly not all of them rely on the same legal grounds, which is why the petition will automatically reflect the exact type of expungement sought. For example, some clients have a statutory right to seek expungement, while others must rely on the court’s inherent authority. HotDocs uses the answers provided in the interview to generate pleadings reflecting the appropriate legal basis.

Editable—You can, at any point, return to the interview and alter any answers. Simply save the new answers and all of the modifications will be reflected in a newly generated petition. The pleadings will generate as a Word document, so more minor changes can be made directly.

Time-Saving—One of the more exhausting exercises in filing can be determining all of the parties who need to be served. No need to worry, in most cases the names and addresses of all appropriate agencies will be automatically generated.

Professional—Experienced criminal expungement attorneys have developed the legal arguments and citations in the generated pleadings, and continue to update language as expungement law changes. In fact, the Minnesota Supreme Court is currently considering a case that could have major implications for future petitions, so now is a great time to become familiar with a tool that will help navigate the changing legal landscape.