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Joy Radice

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Access-to-Justice Challenges for Expungement in Tennessee

On a cold and rainy Saturday morning in October in Knoxville, Tennessee, Kevin Jones,¹ a 35-year-old man, stands in line with more than a hundred people at a pro bono legal clinic—all hoping to talk to a lawyer about cleaning up their criminal record. Mr. Jones's record, in particular, has several diverted charges that can be automatically expunged by petition and one misdemeanor conviction from eight years prior that can be expunged at the discretion of the sentencing judge.² When Mr. Jones speaks to a pro bono attorney at the clinic, though, he learns that he still owes \$500 in court costs and that expunging his record will cost more than \$700 in filing fees. He knows immediately that he cannot afford to pay over \$1000 for expungement relief with the income from his minimum wage construction job. The attorney is saddened, but it is not the first time she has had to be the bearer of this bad news.

In Tennessee, expungement has received serious attention as an access-to-justice issue over the past few years. Lawyers and judges throughout the state have devoted hundreds of pro bono hours to helping people fill out expungement petitions.³ The Tennessee Supreme Court's Access to Justice initiative has highlighted expungement work,⁴ and the Tennessee Alliance of Legal Services offers online legal advice for expungement questions.⁵ The goal is explicit: to offer free legal assistance to those with expungement-eligible charges. The result is tangible: thousands of expungement petitions have been filed, and eligible criminal charges ultimately expunged. Yet the complexity of the law, the onerous process for filing expungement petitions, the predominance of free legal clinics in urban but not rural areas, and the prohibitively high filing fees, combine to create substantial access-to-justice barriers for Tennesseans living below and even slightly above the poverty line. This is a sizable population in Tennessee and one that could benefit most from cleaning up their criminal records to improve their employability.

I. Expunging Criminal Records in Tennessee

The concept of expunging criminal charges is not new in Tennessee. For years, Tennessee has had an expungement statute on the books that focused on expunging dismissed charges.⁶ However, in 2012, the law was expanded to allow expungement for one low-level,

non-violent conviction—essentially creating a first-offender expungement statute.⁷

Since taking that step more than 5 years ago, the Tennessee legislature has amended the statute repeatedly, offering progressively greater relief. One change in 2015 allows for redaction of conviction records to expunge dismissed charges.⁸ Another 2015 amendment eliminates some disqualifying prior convictions.⁹ Most recently and significantly, in 2017, the legislature allowed expungement of two eligible convictions,¹⁰ and reduced the filing fee for convictions from \$450 to \$280.¹¹ Since the beginning of the 2018 legislative session, more than a dozen amendments to the expungement statute have been introduced. As the statute continues to expand, becoming more nuanced and including more eligible offenses, its complexity has also increased, making it no simple matter to offer legal advice about whether someone's record is or is not eligible for expungement, in whole or in part.

The statute currently defines eligible convictions to include most misdemeanors and about two dozen low-level felonies.¹² Even though up to two convictions are now eligible for expungement, a person may receive an expungement only once and even an otherwise eligible conviction may not be expunged if a criminal history has even one non-eligible conviction. Eligible convictions can be expunged five years after the criminal sentence is complete,¹³ while dismissed or diverted charges are eligible immediately.¹⁴ In addition to identifying what charges and convictions can be expunged, the Tennessee statute defines expungement as the "destruction" of "public records,"¹⁵ and then explains that public records exclude several types of records including all law enforcement records, district attorney files, and appellate court records.¹⁶ Although the records of an expunged conviction remains inaccessible to the public, the court maintains expunged records confidentially.¹⁷ And sharing the "confidential" information contained in these expunged records publicly is a misdemeanor offense under the statute.¹⁸

The Tennessee expungement statute is clear about the legal effect of expunging a charge or conviction. An expungement "has the legal effect of restoring the petitioner . . . to the same status occupied before the arrest, indictment, information, trial, and conviction."¹⁹ Expungement means that "the conviction of the expunged offense never occurred and the person shall not suffer any adverse



JOY RADICE*

Associate Professor
and 2018 Wilkinson
Junior Research
Professor,
University of
Tennessee College
of Law

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effects or direct disabilities.”²⁰ The petitioner also cannot be guilty of perjury for denying the charge or conviction in response to a question for “any purpose,” and no collateral consequences can be “imposed or continued.”²¹

II. Access-to-Justice Challenges

In crafting the expungement statute, the legislature intended for pro se individuals to navigate the expungement process on their own. For dismissals and diversions, expungement is automatic when a person petitions the sentencing court, and expunging dismissed charges is free (though expungement of diversions involves a filing fee).²² A single-page, uniform petition form that asks for identifying information about the person and details about the charge is used in most counties across the state.²³ The petitioner files the petition with the clerk’s office, the petition is signed by the district attorney, and then sent to the sentencing judge. With the judge’s signature, the petition becomes the official expungement order that is sent to applicable agencies to command the expunction of public records. The dismissed or diverted records are first destroyed by the court clerk and then by the Tennessee Bureau of Investigation. The petitioner receives the expungement order evidencing that the charges were expunged.

For expunging convictions, the legislature devised a way for pro se petitioners to get help. The amendment in 2012 required the district attorneys’ offices to “create a simple form to enable a lay person to petition the court for expunction.”²⁴ The petition and the proposed order “shall be prepared by the office of the district attorney general and given to the petitioner to be filed with the clerk of the court.”²⁵ This form petition is more extensive than the one designed for dismissals and diversions because a petitioner has to meet several factors, both the petitioner and the district attorney have an opportunity to provide evidence relating to the petition, and expunging a conviction is discretionary with the court weighing “the interests of the petitioner against the best interests of justice and public safety.”²⁶

Even though the legislature intended simplicity and accessibility, the administrative process, the statute’s complexity, its excessive fees, and the statewide resource disparities can create seemingly insurmountable hurdles for people of limited means who otherwise would be eligible to expunge charges from their criminal histories.

A. Administrative Obstacles

The primary administrative obstacle is gathering the information needed for filling out the expungement petitions. First, pro se petitioners do not usually have access to their complete statewide criminal history, which costs money and time to order. A county clerk, for a fee, can provide them with a county-specific public criminal record, but these records can be difficult to read for someone unfamiliar with the system. A pro se petitioner may not even recognize a dismissed disposition. Part of the problem is that records in different counties look different and have

various ways of describing dismissals—“nolle prossed,” “pass and dismiss,” or “no true bill”—that may not make sense to a lay person. Sometimes final judgments are not entered properly because of clerical errors or a county’s conversion to a computerized case management system. So accessing and interpreting records on the front end, even for something as basic as identifying dismissed charges, can be difficult without legal assistance.

A second administrative hurdle is filling out some of required fields on the single-page expungement petition for dismissals and diversions. The fields ask for details about the arrest, charging instruments, and warrant attachments. For example, the petitioner has to fill out the “filing date” and “arrest date,” which can be two different dates that are not always listed on a person’s public criminal history. Even a law student with basic expungement training can be stumped if the clerk does not provide specific information for the form. Also, an entirely different form is needed for partial expungements, which not all counties provide. Any error made in filling out the petition may result in a denial of the petition and starting all over. This can result in a delay of several weeks.

A simpler petitioning process could solve part of the problem once dismissed or diverted charges are identified. First, the statute does not require the petition or order to present this level of detail. Second, some counties have made the process more accessible to lay persons, but these innovations are not statewide. In Davidson County, a simpler form is required that omits some of the information in the petition, and the court clerks help find information that is not in a criminal history and even help fill out petitions. In Knox County, at an expungement screening that occurs twice a week, an assistant district attorney reviews a criminal history to identify eligible expungements, and then law students use a computer-generated expungement summary form to help fill out the petitions.

The conviction petition form is user-friendly, but without a prosecutor’s assistance as required under the statute, the pro se petitioner must gather information that is difficult to obtain on their own. When the prosecutor assists in completing the conviction expungement petitions and sample orders, the petitioner can receive the guidance needed and the petition can be entered quite easily. But when the district attorney decides to oppose the expungement, a petitioner needs to develop evidence or a legal argument for why the conviction is eligible under the statute. A pro se petitioner can have a difficult time composing a compelling petition over the prosecutor’s objection.

B. Costly Hurdles

Visible and invisible cost hurdles present the most significant roadblock for indigent petitioners seeking to expunge eligible convictions and diverted charges. The very visible cost hurdle is written into the statute itself. For convictions, the statute requires a \$280 statutory fee with no indigency waiver provision. For diversions, the statutory fee is \$350, but some judges will waive the fee if a petitioner is

indigent.²⁷ The statute also permits local clerks to tack on an additional \$100 fee.

In 2012, when expungement was extended to non-violent convictions, the state legislators supporting the bill believed that expungement petitions would be a significant revenue generator. As a result, jurisdictions were charging as much as \$450 to expunge a single conviction and \$475 to expunge a diversion.²⁸ Part of the 2017 amendment acknowledged this problem and reduced the conviction expungement fee to \$180. With the additional \$100 local fee, though, \$280 is still prohibitively expensive for a low-income petitioner.²⁹ And even prosecutors commented on the peculiarity of making it prohibitively more expensive to expunge diversions than convictions.

Tennessee's expungement fees are significantly higher than the fees charged by other states.³⁰ And the fees generated to date, although markedly lower than predicted in the fiscal bill, exceed the amount needed to run the system.³¹ As an example, in the six-month period from July 2013 to December 2013, approximately 230 expungements were processed, generating over \$100,000 in conviction expungement fees.³² The district attorneys' offices collected \$40,434.46 of that total, but only required to \$28,337 to process these expungements, and the Tennessee bureau of investigation collected \$11,512.50, but only required \$4,800 to run its expungement program.³³

Given this excess of revenue generated by the expungement fees, an obvious solution is to allow judges to waive the expungement fee for convictions and diversions for indigent petitioners using criteria similar to the indigency criteria that they are familiar with using to appoint indigent defendants with a public defender. The same sentencing judge who signs expungement petitions makes indigency decisions on a daily basis. Yet a 2014 Tennessee attorney general opinion stands in the way.³⁴ The memo advised that because the expungement statute does not authorize waiver of the filing fee, but rather requires indigent petitions to enter into a payment plan with the clerk, waiver is not permitted.³⁵ And although the memo only addresses conviction fee waivers, judges do not always see that distinction when faced with a motion to waive the \$475 diversion fee. Judges do not uniformly grant these waivers across the state or use consistent criteria.

The invisible, and in many cases most significant, cost hurdle results from unpaid court costs attached to expungable dismissals, diversions, and convictions. Because judges consider court costs to be a part of a criminal case's resolution, they require that costs are paid before a person can expunge any charge, even dismissed charges. Too often in Tennessee, defendants agree to a dismissal of their charges "upon payment of court costs." For example, a dismissed simple possession charge can easily result in court costs of \$500. The same is true for eligible convictions, but court costs on convictions usually far exceed \$500, especially for eligible felony convictions. Judges have express statutory authority to waive court costs for indigent defendants.³⁶ Although the response of judges to waiving

or suspending court costs varies from jurisdiction to jurisdiction, many judges routinely exercise that authority provided that petitioners can adequately present evidence to justify their inability to pay.³⁷ Many counties even have form waiver motions and orders that attorneys use. But without legal assistance to help them file a court-cost waiver motion, indigent petitioners may find it difficult if not impossible to ask a judge for this relief, and these expungable charges will remain on their records until the costs are paid.

C. Counseling Conflicts

Tennessee's expungement statute requires the district attorney in each jurisdiction to assist pro se petitioners in filing their expungement petitions for eligible convictions. Because petitions to expunge dismissed charges are automatically granted and free, assistance by the district attorney or court clerk may not raise any red flags. But requiring a prosecutor to offer assistance for conviction expungements, which are discretionary and which the district attorney's office can oppose, raises sticky ethical questions. A 2012 Tennessee Board of Professional Responsibility's formal ethics opinion identifies the potential problems raised by the statutory requirement, but concludes that the requirement does not create an ethical problem provided that the prosecutor does not give legal advice, but rather offers administrative assistance to the pro se petitioner.³⁸ According to the opinion, the prosecutor must clearly explain that no attorney-client relationship exists, that the pro se petitioner can seek additional legal advice, and that the district attorney is opposing the petition in cases where the office will. The ethics opinion goes on to say that even when the district attorney will oppose the petition, the office must assist the petitioner in preparing the petition provided that the petition does not include fraudulent information.³⁹ These limitations on the prosecutor's role severely limit their assistance. And it is hard to imagine that prosecutors can effectively help a petitioner without giving them legal advice about whether a conviction is eligible in the first place. Additionally, the statute places the prosecutor in a difficult position when filling out a petition that the prosecutor believes has no legal merit, especially when the office benefits from the \$280 expungement fee, which is not refunded if the petition is denied.

A related ethical issue unaddressed by the 2012 ethics opinion is how the district attorney can avoid giving legal advice while at the same time filling out the petition, if a person's potentially eligible convictions implicate parts of the expungement statute that are vague and open to legal interpretation. For example, in a 2015 amendment to the expungement statute, moving and nonmoving traffic offenses "shall not be considered a criminal offense" for the purpose of expunging convictions.⁴⁰ As a result, these traffic offenses no longer count against a person with another eligible conviction. First, there has been significant disagreement between defense attorneys and prosecutors about what constitute moving and non-moving traffic

offenses. Prosecutors under the ethic opinion's interpretation are unable to give legal advice on this issue. Second, this new section raises a strategic legal question for the petitioner with only an expungable moving or non-moving offense on their record. Essentially, the petitioner needs to decide whether or not to burn the one-time expungement on an excluded traffic offense, and the prosecutor would be unable to give legal advice about that question as well. The consequence of the district attorney's limited role can mean that individuals who cannot afford legal advice do not seek an expungement for a conviction that could be eligible. Public defenders, on the other hand, who are not authorized by the statute to help pro se petitioners with conviction expungements, are better positioned to fill this role.

D. Limited Pro Bono Legal Assistance

As more attorneys throughout the state help people clean up their criminal records, the most common form of legal help is through a growing number of weekend "expungement clinics" organized by judges, bar associations, legal aid organizations, and law schools. The outcome of these clinics on paper is often overwhelmingly positive. Hundreds of expungement petitions are filed. Yet the bulk of the work done at these clinics focuses on removing dismissals from a person's criminal history. This is because those expungements are easy to identify and handle, and involve no fees.

Although expunging hundreds of dismissals is no small task, where convictions are concerned there are more complicated legal issues relating to eligibility that may go unaddressed through clinics, especially when a petitioner has more than one conviction. Pro bono attorneys often do not offer legal advice about conviction eligibility or court cost waiver issues because this requires more than a short legal consultation relating to a person's criminal history in the local court. On the one hand, this avoids incomplete or inaccurate legal advice by pro bono attorneys who are frequently not well-versed in the complexities of the expungement statute. On the other hand, individuals attending these clinics may not realize that they have more work to do on their criminal histories before they can confidently file a costly application to expunge a conviction.

The pro bono legal services model thus creates a catch-22 for a person trying to understand if they have expungement-eligible convictions. The legal clinics rarely offer advice about convictions, but many individuals cannot afford to hire a lawyer who can determine if they have expungable convictions. Filing a conviction expungement petition that is denied can be costly since some jurisdictions will not refund the \$280 filing fee.⁴¹ Ironically, the very existence of pro bono legal clinics may actually mask how inaccessible the statute is for a person who cannot afford to hire a lawyer.

E. Reducing Statewide Resource Disparities

Three of the largest cities in Tennessee reflect the potential for how counties can successfully implement effective pro bono legal help for people seeking to expunge their records.

In Nashville, the clerk's office developed an individualized, online form to request help with expungement. If a person has eligible charges, the clerk fills out an expungement petition. Independently, a Nashville general sessions court judge hosts a community court on several Saturdays throughout the year to assist petitioners in determining their eligibility for expungement, to waive court costs for indigent petitioners, and to sign expungement orders. A judge in Memphis and one in Knoxville have replicated this weekend community court model, with hundreds of individuals lining up to attend. Also in Knoxville, the District Attorney's office collaborated with the Clerk's Office to set up an "expungement screening" twice a week where an assistant district attorney and law students in the University of Tennessee Legal Clinic, trained in expungement law, counsel pro se petitioners and assist them in filling out their expungement petitions, including conviction expungements. The Administrative Office of the Courts has also set up an expungement clinic-in-a-box tool kit to help pro bono attorneys run effective clinics throughout the state.

These examples present ways that the courts, district attorneys, clerks, local attorneys, and even law students are developing best practices to help pro se petitioners understand how the expungement statute can help them, and file those petitions. However, much of that work is occurring in Tennessee's biggest cities, creating a disparity in assistance for people living in less populous and rural countries where resources are much more limited.

III. Forging a Path to Reform

Tennessee has the potential to be a national leader in expungement law, and some of the bills recently introduced to amend the expungement statute address the persistent access-to-justice barriers facing indigent, pro se applicants hoping to clean up their criminal records. Three amendments, in particular, would make a real difference: automatic statewide expungement of dismissals, authority for courts to waive filing fees for those who can prove indigency, and limits on judicial discretion to deny expungement for eligible convictions.

Expunging dismissals can be made administratively easier in Tennessee. Several states, like Illinois and New Jersey, seal or expunge dismissed charges automatically without requiring a separate proceeding or filing of a petition.⁴² In Maryland, expungement of non-convictions is not automatic, but a website called MDExpungement has simplified expunging non-convictions.⁴³ The website connects to the state's criminal history databases and allows a person to identify eligible dismissals, and then the program uses the information in the database to automatically populate an expungement petition that the person can file with the appropriate court clerk.⁴⁴ If Tennessee adopted a computerized system for expunging dismissed charges or developed a website like Maryland's, individuals could navigate the process of expunging dismissals on their own. Pro bono efforts throughout the state could then focus on helping indigent individuals with more difficult legal issues relating

to expungement, like preparing motions to waive costs and fees and answering questions about whether certain convictions are eligible for relief.

Currently, judges have authority to make indigency determinations in criminal cases to reduce or waive costs and fees, making them proportionate to a person's ability to pay. They make these decisions daily when appointing state-funded attorneys to indigent defendants. But this authority is not explicitly set forth in the expungement statute, and the AG's memo cautions against it, so judges throughout the state understand this waiver authority differently when it comes to expungement fees. The current expungement fees, though, are not proportionate to income, and so disproportionately limit low-income individuals' ability to expunge their records. To lift this barrier, an amendment to the expungement statute could explicitly allow judges to make indigency determinations that waive or reduce expungement fees.

Expunging an eligible conviction in Tennessee is discretionary, and the statute's only guidance is a vague balancing test requiring the judge to weigh "the interests of the petitioner against the best interests of justice and public safety," but offering the judge no criteria to help make that decision.⁴⁵ Other states have solved this problem by removing discretion entirely or creating a more detailed balancing test with a presumption in favor of granting the expungement. For example, a neighboring state, Kentucky has mandatory expungement for a single misdemeanor or misdemeanors arising from the same incident.⁴⁶ By comparison, Kansas has a presumption in favor of expungement, and Minnesota has a presumption in favor of sealing if certain criteria are met.⁴⁷

In Tennessee, eligible convictions are limited to low-level, non-violent offenses, leaving many without a chance to expunge their more serious offenses even after long crime-free periods. Legislators in Tennessee focused on helping individuals move beyond their criminal record may be interested in examining more expansive statutes in Illinois, Indiana, and Nevada, which afford relief to almost all but the most serious felonies after specified waiting periods.⁴⁸ Illinois seals a wide range of records after a brief three years, while Nevada and Indiana stagger the timing of sealing based on the level of offense.⁴⁹ Indiana's expungement scheme provides for fee waivers and has been proactively administered by the state court system.⁵⁰ The scope of these relief mechanisms is far more expansive than Tennessee's statute and can serve as models for reform.

The Tennessee expungement statute has given hope to many who want to move beyond their criminal charges and become productive, contributing citizens. Each year, the legislature has expanded that possibility. By removing access-to-justice obstacles to expungement for Tennesseans of limited means, the state can provide a second chance to those who stand to benefit the most from expungement.

Notes

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¹ I have used a pseudonym to protect Mr. Jones' actual identity.
² Tenn. Code Ann. § 40-32-101 (2017).

³ For example, see *Expungement Clinics*, Vet to Vet Tennessee, <http://tnvhc.org/expungement-clinics/> (last visited Mar. 4, 2018).

⁴ The 2016 Pro Bono Report produced by the Tennessee Supreme Court's Justice for All initiative describes some of the expungement work completed by bar associations, law schools, and legal aid organizations that have been supported by the Administrative Office of the Courts. *Pro Bono Report 2016: Justice for All, a Tennessee Supreme Court Initiative*, http://www.tncourts.gov/sites/default/files/docs/atj_2016_pro_bono_report.pdf.

⁵ *Topics: Expungement*, Help4tn, <https://www.help4tn.org/topics/553/expungement> (last visited Mar. 4, 2018).

⁶ Tenn. Code Ann. § 40-32-101 (1998).

⁷ Tenn. Code Ann. § 40-32-101 (2012).

⁸ Tenn. Code Ann. § 40-32-101(j) (2015).

⁹ Tenn. Code Ann. § 40-32-101(a)(1)(E)(i) (2015).

¹⁰ Tenn. Code Ann. § 40-32-101 (k)(1) (2017). Those two convictions can either be two eligible misdemeanor convictions or one eligible misdemeanor and one eligible felony conviction.
¹¹ Tenn. Code Ann. § 40-32-101(g)(10), (17) (2017). The figures of \$350 and \$280 account for the additional \$100 clerk's fee that the statute permits and local jurisdictions charge. The \$475 filing fee for expunging diversions, which also includes clerk fees, was not changed.

¹² Tenn. Code Ann. § 40-32-101 (g)(A)-(C) (2017).

¹³ Tenn. Code Ann. § 40-32-101(g)(2)(B) (2017).

¹⁴ Tenn. Code Ann. § 40-32-101(a).

¹⁵ Tenn. Code Ann. § 40-32-101 (a)(1)(A) and (g)(12)(A) (2017).

¹⁶ Tenn. Code Ann. § 40-32-101 (b)(1).

¹⁷ Tenn. Code Ann. § 40-32-101(a)(1)(A) and (g)(13) (2017). The one exception is that the expunged conviction records can be used to enhance a subsequent criminal sentence if a petitioner is charged and convicted of a new offense.

¹⁸ Tenn. Code Ann. § 40-32-101(c)(1) (2017).

¹⁹ Tenn. Code Ann. § 40-32-101(g)(12)(B).

²⁰ Tenn. Code Ann. § 40-32-101(g)(12)(D) (2017).

²¹ Tenn. Code Ann. § 40-32-101(g)(12)(B) (2017).

²² Tenn. Code Ann. § 40-32-101(a)(1)(A) and (d)(1) (Charges that are dismissed by the court, not pursued by a grand jury, or not prosecuted are expunged automatically at "no cost" to the petitioner provided that court costs are paid, and "[t]he order shall contain the name of the person seeking expunction, the person's date of birth and social security number, the offense that was dismissed, the date and cause of the dismissal and the date the order of expunction is entered.") However, there is a fee for expunging diverted charges that remains at \$350, anomalously higher than the fee for expunging convictions, for a total of \$475 when ordinary filing fees are added.

²³ Order for the Expungement of Criminal Offender Record, https://knoxcounty.org/dag/resources/pdfs/order_for_the_expungement_of_criminal_offender_record.pdf (last visited Mar. 4, 2018).

- ²⁴ Tenn. Code Ann. § 40-32-101(g)(7) (2017).
- ²⁵ Tenn. Code Ann. § 40-32-101(g)(8) (2017).
- ²⁶ Tenn. Code Ann. § 40-32-101(g)(5) (2017).
- ²⁷ Tenn. Code Ann. § 40-32-101(g)(9) and (d)(2)(A)(2017).
- ²⁸ In Knoxville, for example, diverted charges cost \$475 to expunge when local fees and charges are added to the \$350 fee authorized by the statute.
- ²⁹ Tenn. Code Ann. § 40-32-101(g)(10) (2017).
- ³⁰ Rebecca Beitsch, *Got a Criminal Record? It's Getting Easier, Less Expensive to Expunge It*, Stateline (June 8, 2016), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/06/08/got-a-criminal-record-its-getting-easier-less-expensive-to-expunge-it>.
- ³¹ Tenn. Ag Lexis 70, Opinion No. 14-66 (2014).
- ³² *Id.*
- ³³ *Id.*
- ³⁴ Tenn. Ag Lexis 80, Opinion No. 14-77 (2014) ("The \$ 350 statutory fee required by § 42-32-101 is mandatory and cannot be waived.").
- ³⁵ *Id.*
- ³⁶ Tenn. Code Ann. § 40-25-123 (2017).
- ³⁷ *Id.*
- ³⁸ *2012-F-155 District Attorneys compliance with expungement*, Board of Professional Responsibility Formal Ethics Opinions (2012), available at http://www.tbpr.org/ethic_opinions/2012-f-155 (last visited Mar. 4, 2018).
- ³⁹ *Id.*
- ⁴⁰ Tenn. Code Ann. § 40-32-101(g)(2)(A) (2017).
- ⁴¹ See *Expungements*, Office of the District Attorney General, 6Th Judicial District, Knox County, <https://www.knoxcounty.org/dag/resources/expungements.php> (last visited Mar. 30, 2018).
- ⁴² Margaret Love, Josh Gaines, & Jenny Osborne, *Forgiving and Forgetting in American Justice: A 50-State Guide to Expungement and Restoration of Rights*, Collateral Consequences Resources Center 11 (rev., April 2018), <http://ccresourcecenter.org/wp-content/uploads/2017/10/Forgiving-Forgetting-CCRC-Apr-2018.pdf>. This report is included in an appendix to this Issue.
- ⁴³ *Maryland Expungement and Determination Form*, Mdexpungement, <https://www.mdexpungement.com> (last visited Mar. 4, 2018).
- ⁴⁴ *Id.*
- ⁴⁵ Tenn. Code Ann. § 40-32-101(g)(5) (2017).
- ⁴⁶ See state profiles in Restoration of Rights Project, <http://restoration.ccresourcecenter.org/>. See also Love et al., *supra* note 42, at 42.
- ⁴⁷ Love et al., *supra* note 42, at 41, 48.
- ⁴⁸ *Id.* at 7–8.
- ⁴⁹ *Id.*
- ⁵⁰ See Josh Gaines & Margaret Love, *Expungement in Indiana: A radical experiment and how it is working so far*, 30 Fed. Sent'g Rep. 252–256 (2018).