

HOUSE BILL 541

By Harris

AN ACT to amend Tennessee Code Annotated, Title 8; Title 9, Chapter 8; Title 10, Chapter 7; Title 16; Title 18; Title 20; Title 21; Title 27; Title 28; Title 29; Title 50, Chapter 6 and Title 66, relative to court records in civil actions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding the following as a new chapter:

(a) As used in this chapter:

(1) "Civil action" means a legal proceeding for:

(A) Collection of a debt;

(B) Monetary compensation for damages caused by a person's act or omission; or

(C) Eviction; and

(2) "Public records":

(A) Means trial court records; and

(B) Does not include appellate court records or appellate court opinions.

(b) A court may order the removal and destruction of all public records of a person who has been a party to a civil action before the court, if:

(1) The person petitions the court for removal and destruction of the records; and

(2)

(A) The action was dismissed with prejudice and a notice of appeal was not timely filed;

(B) The action was dismissed without prejudice, but cannot be recommenced under § 28-1-105 or another law; or

(C) A satisfaction of judgment was entered for the court's final judgment in the action.

(c) A person seeking removal and destruction of public records in a civil action shall petition the trial court that dismissed or entered judgment in the civil action. Upon filing of the petition, the clerk shall serve the petition on all named parties in the civil action. Not later than sixty (60) days after service of the petition, a party may submit an objection to the court and provide a copy of such objection to the petitioner.

(d) The petitioner and other named parties in the civil action may file evidence with the court relating to the petition.

(e) The court shall enter an order granting or denying the petition no sooner than sixty-one (61) days after service of the petition upon the named parties to the civil action. Prior to entering an order on the petition, the court shall review and consider all evidence submitted by the petitioner and other named parties to the civil action.

(f) There is a presumption that the petition should be granted unless the court makes specific findings that the interests of justice demand otherwise.

(g) If the court denies the petition, the court shall enter written findings on the record and the petitioner shall not file another such petition in the case for which the petition was denied until at least two (2) years from the date of the denial.

(h) The administrative office of the courts shall, by September 1, 2023, create a simple form to enable a lay person to petition the court for removal and destruction of records under this chapter. The administrative office of the courts shall make the form

available on a publicly accessible area of its website. Attorneys and legal aid societies in this state are urged to prepare petitions and proposed orders under this chapter as pro bono service.

(i)

(1) Notwithstanding any other law to the contrary, an order of removal and destruction of public records granted pursuant to this chapter entitles the petitioner to have all public records of the civil action destroyed.

(2) A petitioner with respect to whom an order has been granted under this chapter is not guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge the civil action in response to any inquiry made of the petitioner for any purpose.

(3) Removal and destruction of records under this chapter means, in contemplation of law, the civil action never occurred and the person shall not suffer any adverse effects or direct disabilities by virtue of such civil action.

(j) A person petitioning for the destruction of records under this chapter shall be charged the appropriate clerk's fee pursuant to § 8-21-401, if applicable, for destroying such records.

(k) This chapter does not prohibit a party to a civil action from petitioning a court to seal, or remove and destroy, public records by any other method authorized by law or court rules.

SECTION 2. For purposes of developing forms, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect September 1, 2023, the public welfare requiring it.