



Office of Court Administration

**Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.0725**

BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT PETITION. THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS SEEKING AN ORDER OF NONDISCLOSURE UNDER § 411.0725, GOV'T CODE. DO NOT ATTEMPT TO COMPLETE A PETITION FOR AN ORDER OF NONDISCLOSURE WITHOUT FIRST REVIEWING THE NONDISCLOSURE OVERVIEW TO DETERMINE IF YOU ARE ELIGIBLE FOR AN ORDER OF NONDISCLOSURE AND TO IDENTIFY THE CORRECT FORMS TO USE. THE NONDISCLOSURE OVERVIEW IS AVAILABLE AT THIS LINK: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

TO BE ELIGIBLE TO USE THIS FORM EACH OF THE FOLLOWING STATEMENTS MUST BE TRUE.

1. You are ineligible to receive an order of nondisclosure under § 411.072.
2. You were placed on deferred adjudication for the offense for which the order of nondisclosure is requested.
3. The offense for which the order of nondisclosure is requested is not the offense of driving while intoxicated or boating while intoxicated.
4. You received a dismissal and discharge for the offense for which the order of nondisclosure is requested.
5. You have waited the applicable waiting period before filing this petition, which is immediately, 2 years, or 5 years after the dismissal and discharge, depending on the circumstances of your case. *See the Nondisclosure Overview for details on the waiting periods for Orders of Nondisclosure under § 411.0725.*

IF THE SIX STATEMENTS ABOVE ARE NOT TRUE, THIS IS NOT THE CORRECT PETITION AND INSTRUCTIONS FOR YOU. You may be eligible for an order of nondisclosure under another section of the Government Code. You should return to the nondisclosure overview to determine if you are eligible for an order of nondisclosure under another section.

Additional Requirements

1. You are **ineligible** for an order of nondisclosure under § 411.0725, if you were or have ever been convicted of or placed on deferred adjudication for any of the offenses listed below:
 - (A) an offense requiring registration as a sex offender under Chapter 62, Code Crim. Proc.;
 - (B) an offense under § 20.04, Penal Code, (aggravated kidnapping);
 - (C) an offense under any of the following sections of the Penal Code:
 - § 19.02 (murder);
 - § 19.03 (capital murder);
 - § 20A.02 (trafficking of persons);
 - § 20A.03 (continuous trafficking of persons);
 - § 22.04 (injury to a child, elderly individual, or disabled individual);
 - § 22.041 (abandoning or endangering a child);
 - § 25.07 (violation of court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);
 - § 25.072 (repeated violation of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case); or
 - § 42.072 (stalking); or
 - (D) any other offense involving family violence, as defined by § 71.004, Family Code.
2. You are **ineligible** for an order of nondisclosure under § 411.0725 if, during the period after the court placed you on deferred adjudication and during any applicable waiting period (*see #5 above*), you were convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only.
3. You are **ineligible** for an order of nondisclosure under § 411.0725 if the court made an affirmative finding that your offense involved family violence.

Instructions for Completing the Petition

- (1) Please leave this line blank. This is not the number of your criminal case. A civil case will be created when you file the petition. The clerk of the court (hereinafter “clerk”) will enter a new cause number in this space.
- (2) Please enter the name of the court in which you are filing this petition. You must file this petition in the court that placed you on deferred adjudication (hereinafter “deferred adjudication”). The name of the court is displayed at the top of the order that placed you on deferred adjudication.
- (3) Please enter your name as it appears on the order of deferred adjudication.
- (4) Please enter the name of the county in which the court that placed you on deferred adjudication is situated. This will be the same county displayed on the judgment or order of deferred adjudication in your case.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the offense as it appears on the order that placed you on deferred adjudication under Offense. This information should be on the judgment in your case as well.
- (7) Please circle “misdemeanor” if the offense for which you are requesting an order of nondisclosure is a misdemeanor or “felony” if the offense is a felony. The judgment and order of deferred adjudication should indicate whether the offense was a misdemeanor or felony.
- (8) Please enter the criminal cause number as it appears on the judgment or order that placed you on deferred adjudication. Look for *Case or Cause No.* on either document.
- (9) Please enter the date your deferred adjudication began. This date should be on the order of deferred adjudication.
- (10) Please enter the date your deferred adjudication ended. This date should be on the court’s order that discharged and dismissed the proceedings against you.
- (11) Please circle “is” if you are attaching a copy of the judgment or order that placed you on deferred adjudication. Attaching a copy of the court’s order may expedite the process for obtaining an order of nondisclosure, but it is

not required. Please circle “is not” if you are not attaching a copy of the judgment or order that placed you on deferred adjudication.

- (12) Please circle “is” if you are attaching a copy of the discharge and dismissal. Please circle “is not” if you are not attaching a copy of the discharge and dismissal.
- (13) Please enter the date as it appears on the discharge and dismissal.
- (14) Please review the four statements lettered A through D and place a check mark or an “x” on the line before each statement that is true in your case. There may be more than one that applies in your case. Be sure to review all four statements.
- (15) If you placed a check mark or “x” on the line in front of statement D, please circle “is” if you are attaching a list of your prior convictions and deferred adjudications, or circle “is not” if you are not attaching a list of your prior convictions and deferred adjudications.
- (16) Review the three statements and place a check mark or an “x” on the line before the statement that applies to your case. Only one of the options will apply to you. If the offense for which you are requesting an order of nondisclosure is a felony, check the line in front of the first statement. If you check this statement, you must wait five years after your dismissal and discharge before you can file a petition for an order of nondisclosure. If the offense for which you are requesting an order of nondisclosure is a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code, place a check mark or an “x” in front of the second statement. If you check this statement, you must wait two years after your dismissal and discharge before you can file a petition for an order of nondisclosure. If your offense is not an offense under any of the chapters mentioned above, place a check mark or an “x” in front of the third statement. If you check the third statement, you can file a petition for an order of nondisclosure on or after the date of your dismissal and discharge.
- (17) There is a filing fee associated with filing a petition for order of nondisclosure under § 411.0725. The filing fee is the amount of the court’s regular civil filing fee plus an additional \$28. Typically, the total filing fee is about \$280. However, the amount varies from county to county. You must contact the clerk of the court in which you are filing the petition to obtain the correct amount of the total filing fee. **NOTE:** You should not have to pay the clerk to serve the petition on the attorney for the state

(hereinafter “prosecutor”), Department of Public Safety (hereinafter “DPS”), or any other agency or entity, including any law enforcement entity. The statute requires the court, clerk, and DPS to notify the other parties of interest. See §§ 411.0745(e), 411.075(a) and 411.075(b), Gov’t Code, respectively.

As a general rule, you must pay the filing fee in order to file the petition. However, you may be eligible to file a Statement of Inability to Afford Payment of Court Costs in lieu of paying the filing fee. The statement is described in Rule 145 of the Texas Rules of Civil Procedure. You may view Rule 145 online at <http://www.txcourts.gov/media/1435952/trcp-all-updated-with-amendments-effective-912016.pdf>. You can click here for the form: <http://www.txcourts.gov/media/1435953/statement-final-version.pdf>.

Please place a check mark or an “x” on the line before the statement that applies to you. Mark or check the line in front of the first statement, if you are paying the filing fee. If you are submitting a **Statement of Inability to Afford Payment of Court Costs** instead, place a check mark or an “x” near the second statement.

- (18) Please sign above the line. If you are filing this petition electronically, you may enter “/s/” followed by your typewritten name.
- (19) Please PRINT your name.
- (20) Please enter your mailing address.
- (21) Please enter your city, state and zip code.
- (22) Please enter your telephone number.

Process after You Complete the Petition

Assuming you are eligible for an order of nondisclosure under § 411.0725, the process for obtaining an order under this section is as follows:

First, be sure to wait the requisite time before filing the petition, and check with the clerk to obtain the total amount of the fee (including the \$28 fee) that you will have to pay when you file the petition, unless you are submitting

a *Statement of Inability to Afford Payment of Court Costs*. Next, be sure to complete the right petition according to the instructions, and after you have done so, print both the petition and the *Order of Nondisclosure*. In most courts, you will have to submit a proposed order with your petition when you file it. The judge will complete the order, if the judge grants your request.

After you file the petition, the clerk will send it to the court and the court will notify the prosecutor. Again, you should not have to pay the clerk to serve notice on the prosecutor or any other party.

The court does not have to hold a hearing, unless the prosecutor requests one.

If a hearing is scheduled, you will be notified. If a hearing is held, the court may ask questions to determine whether you satisfy the requirements of §§ 411.0725 and 411.074, Gov't Code. If the court finds that you satisfy the requirements of those sections and that issuance of the order of nondisclosure is in the best interest of justice, the court should grant your request.

If the court does not hold a hearing, the court will review your petition to determine whether an order of nondisclosure shall issue. The court must find that you satisfy the requirements of §§ 411.0725 and 411.074 and that issuance of the order of nondisclosure is in the best interest of justice before the court may grant your request.

The court or prosecutor will have access to your criminal history record information and will use it to determine if you are eligible for an order of nondisclosure.

If the court grants the order of nondisclosure, the clerk will send a copy of the order to DPS. Then, no later than 10 business days after receiving the copy of the order, DPS will seal the part of your criminal history record information that is the subject of the order and forward the order to the agencies listed in § 411.075(b), Gov't Code. See § 411.075(b) for a complete list of agencies and entities that DPS must notify.

Cause No. _____
(1)

In the Matter of

§

In the

§

§

(2)

_____ County, Texas

(3)

(4)

Petition for Order of Nondisclosure **Under Section 411.0725**

_____ (5) (hereinafter "Petitioner") respectfully petitions this court for an order of nondisclosure under § 411.0725, Gov't Code, for the offense detailed in the following paragraph.

1. The Underlying Order and Order of Discharge and Dismissal

Petitioner plead guilty or nolo contendere to the offense of _____ (6), a misdemeanor /felony (7) in Criminal Cause No. _____ (8) in this court.

Petitioner was placed on deferred adjudication community supervision (hereinafter "deferred adjudication") under Article 42A.101, Code Crim. Proc. (formerly, Section 5, Article 42.12). The term of Petitioner's deferred adjudication began on _____ (9) and ended on _____ (10). A copy of the judgment or order placing Petitioner on deferred adjudication **is / is not** (11) attached to this petition.

The court did not proceed to an adjudication of guilt. Instead, the court subsequently dismissed the proceedings and discharged the defendant. A copy of the dismissal and discharge **is / is not** ⁽¹²⁾ attached to this petition. The dismissal and discharge occurred on _____ ⁽¹³⁾.

2. Petitioner Satisfies the Requirements of Section 411.0725, Gov't Code

Petitioner satisfies the requirements of § 411.0725, Gov't Code, in that Petitioner is **ineligible** for an order of nondisclosure under § 411.072, Gov't Code, because (check all that apply): ⁽¹⁴⁾

____ A. The misdemeanor offense for which the order of nondisclosure is requested falls under one of the following chapters of the Penal Code:

- 20 (kidnapping, unlawful restraint, smuggling of persons),
- 21 (sexual offenses),
- 22 (assaultive offenses),
- 25 (offenses against the family),
- 42 (disorderly conduct and related offenses),
- 43 (public indecency offenses),
- 46 (weapons offenses), or
- 71 (organized crime offenses).

____ B. The court found that it is not in the best interest of justice that Petitioner receive an automatic order of nondisclosure under Section 411.072 and filed a statement of that finding with the papers of Petitioner's case.

____ C. The offense for which the order of nondisclosure is requested is a felony.

____ D. Petitioner has been previously convicted of or placed on deferred adjudication for an offense other than a traffic offense punishable by fine only. (A list of offenses and dates of Petitioner's previous convictions and deferred adjudications **is/ is not** ⁽¹⁵⁾ attached to the petition.)

____ E. Petitioner received a discharge and dismissal prior to September 1, 2017.

Petitioner also satisfies the requirements of § 411.0725 in that: (1) Petitioner has received a dismissal and discharge for the offense for which the order of nondisclosure is requested; and (2) the offense for which the order of nondisclosure is requested is not the offense of driving or boating while intoxicated under § 49.04 or 49.06, Penal Code, respectively.

Finally, Petitioner satisfies the requirements of § 411.0725 in that Petitioner waited the requisite time, as indicated below, before filing this petition.⁽¹⁶⁾

_____ On or after the fifth anniversary of the dismissal and discharge if the offense for which the order of nondisclosure is requested is a felony.

_____ On or after the second anniversary of the dismissal and discharge if the offense for which the order of nondisclosure is requested is a misdemeanor offense under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code.

_____ On or after the dismissal and discharge if the offense for which the order of nondisclosure is requested is a misdemeanor offense but not a misdemeanor offense under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code.

3. Petitioner Satisfies the Requirements of Section 411.074, Gov't Code

Petitioner satisfies the requirements of § 411.074, Gov't Code, in that:

- During the period after the court placed Petitioner on deferred adjudication, and during any applicable waiting period following the dismissal and discharge (see Section 2 above), Petitioner was not convicted of or placed

on deferred adjudication for any offense other than a traffic offense punishable by fine only;

- Petitioner was not and has not ever been convicted of or placed on deferred adjudication for any of the offenses listed below:

(A) an offense requiring registration as a sex offender under Chapter 62, Code Crim. Proc.;

(B) an offense under § 20.04, Penal Code (aggravated kidnapping);

(C) an offense under any of the following sections of the Penal Code:

- 19.02 (murder);
- 19.03 (capital murder);
- 20A.02 (trafficking of persons);
- 20A.03 (continuous trafficking of persons);
- 22.04 (injury to a child, elderly individual, or disabled individual);
- 22.041 (abandoning or endangering a child);
- 25.07 (violation of court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);
- 25.072 (repeated violations of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case); or
- 42.072 (stalking); or

(D) any other offense involving family violence, as defined by § 71.004, Family Code; and

- The court has not made an affirmative finding that the offense for which the order of nondisclosure is requested involved family violence, as defined by § 71.004, Family Code.

4. Petitioner is Entitled to File a Petition for an Order of Nondisclosure Under Section 411.0725, Gov't Code

A person is entitled to file a petition for an order of nondisclosure under § 411.0725, Gov't Code, if:

- the person is ineligible to receive an order of nondisclosure under § 411.072, Gov't Code;
- the person was placed on deferred adjudication for a qualifying misdemeanor or felony offense;
- the offense for which the order of nondisclosure is requested is not the offense of driving or boating while intoxicated under § 49.04 or § 49.06, Penal Code, respectively;
- the person has received a dismissal and discharge from the court;
- the person has waited the requisite time before filing a petition for an order of nondisclosure; and
- the person has met the requirements of § 411.074, Gov't Code.

5. Issuance of an Order of Nondisclosure is in the Best Interest of Justice

The issuance of an order of nondisclosure is in the best interest of justice.

6. The Fee to File the Petition has been Paid or Otherwise Satisfied

The fee to file this petition is the total amount of the fee required to file a civil

petition and \$28.00, or a petitioner may submit a *Statement of Inability to Afford Payment of Court Costs* in lieu of paying the filing fee. Petitioner has included ⁽¹⁷⁾

_____ the required filing fee.

_____ a *Statement of Inability to Afford Payment of Court Costs* in lieu of the required filing fee.

7. Prayer for Relief

Petitioner respectfully prays that the court grant Petitioner’s request for an order of nondisclosure prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense specified in this petition.

Respectfully submitted,

(18)

(19)

(20)

(21)

(22)

Cause No. _____

In the Matter of

§

In the

§

§

_____ County, Texas

Order of Nondisclosure

On this the _____, day of _____, 20____, the Court considered Petitioner’s petition for an order of nondisclosure.

The State was given notice of the petition and an opportunity to request a hearing.
The State

- requested a hearing.
- did not request a hearing.

The Court

- conducted a hearing on _____, 20____.
- did not conduct a hearing.

After consideration and a hearing, if a hearing was held, the Court **FINDS** that Petitioner is entitled to file a petition for order of nondisclosure under the section of the Government Code indicated below and that issuance of an order of nondisclosure is in the best interest of justice.

- Texas Government Code § 411.0725
- Texas Government Code § 411.073
- Texas Government Code § 411.0735

Accordingly, **IT IS HEREBY ORDERED** that criminal justice agencies are prohibited from disclosing to the public criminal history record information related to the offense of _____ in Criminal Cause No. _____ in _____ County, Texas.

IT IS FURTHER ORDERED that the criminal history record information pertaining to the arrest and prosecution of Petitioner for the above-referenced offense, as reflected in the above-referenced criminal cause number, shall be sealed and disclosed only to those individuals and agencies listed in § 411.076(a), Gov’t Code.

IT IS FURTHER ORDERED that no later than the 15th business day after the date that this order issues, the clerk of the court (hereinafter "clerk") shall send all relevant criminal history record information contained in this order or a copy of this order to the Crime Records Service of the Texas Department of Public Safety (hereinafter "DPS") by certified mail with return receipt requested or secure electronic mail, electronic transmission, or facsimile transmission, in accordance with § 411.075(a), Gov't Code.

IT IS FURTHER ORDERED that no later than 10 business days after receipt of the relevant criminal history record information contained in this order or a copy of this order from the clerk, DPS shall seal the criminal history record information that is the subject of this order and forward the information or a copy of the order to the state and federal agencies listed in § 411.075(b), Gov't Code, in accordance with § 411.075(b), Gov't Code.

IT IS FURTHER ORDERED that an agency or entity shall seal any criminal history record information maintained by that agency or entity that is the subject of this order no later than 30 business days after the date that the agency or entity receives relevant criminal history record information contained in this order or a copy of this order from DPS or a clerk, in accordance with § 411.075(d), Gov't Code.

IT IS FURTHER ORDERED that the clerk shall seal all court records containing information that is the subject of this order as soon as practicable after the date that the clerk sends a copy of this order or all relevant criminal history record information contained in this order to DPS, in accordance with § 411.076(b), Gov't Code.

Signed on _____.

Judge Presiding

Court/County