



Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.073

BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT PETITION. THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS SEEKING AN ORDER OF NONDISCLOSURE UNDER SECTION 411.073, GOVERNMENT 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: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

TO BE ELIGIBLE TO USE THIS PETITION YOU MUST BE ABLE TO ANSWER YES TO EACH OF THE FOLLOWING QUESTIONS:

1. WERE YOU CONVICTED OF A MISDEMEANOR OTHER THAN A MISDEMEANOR UNDER SECTION 106.041, ALCOHOL BEVERAGE CODE, SECTION 49.04, 49.05, 49.06, OR 49.065, PENAL CODE, OR CHAPTER 71, PENAL CODE?
2. WERE YOU PLACED ON PROBATION FOLLOWING YOUR CONVICTION FOR THE MISDEMEANOR OFFENSE?
3. DID YOU COMPLETE THAT PROBATION, INCLUDING ANY TERM OF CONFINEMENT IMPOSED AND PAYMENT OF ALL FINES, COSTS, AND RESTITUTION, IF ANY?
4. ASIDE FROM THE MISDEMEANOR CONVICTION, IT IS TRUE THAT YOU HAVE NEVER BEEN PREVIOUSLY CONVICTED OF OR PLACED ON DEFERRED ADJUDICATION FOR ANOTHER OFFENSE OTHER THAN A TRAFFIC OFFENSE PUNISHABLE BY FINE ONLY?
5. DO YOU SATISFY THE BASIC ELIGIBILITY REQUIREMENTS OF SECTION 411.074, GOVERNMENT CODE? (PLEASE SEE THE NONDISCLOSURE OVERVIEW FOR THESE REQUIREMENTS.)
6. HAVE YOU SATISFIED THE REQUIRED WAITING PERIOD BEFORE FILING THIS PETITION? (THE NONDISCLOSURE OVERVIEW HELPED YOU TO DETERMINE THE APPLICABLE WAITING PERIOD FOR YOUR OFFENSE.)

IF YOU CANNOT ANSWER YES TO THE SIX QUESTIONS ABOVE, THIS IS NOT THE CORRECT PETITION 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 and to identify the correct form to use.

Instructions for Completing 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 community supervision (hereinafter “probation”). The name of the court is shown on the top of the order that placed you on probation.
- (3) Please enter your name as it appears in the order that placed you on probation.
- (4) Please enter the name of the county in which the court that placed you on probation is situated. This will be the same county as shown on your order.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the name of the offense for which you were convicted. The name of the offense is on the judgment or order that placed you on probation under Offense.
- (7) Please enter the criminal cause number as shown on the court’s order that placed you on probation. Look for *Case No.* on that order.
- (8) Please enter the date of your conviction for the offense for which the order of nondisclosure is requested.

- (9) Please enter the date that you were placed on probation. This should be on the order or document that placed you on probation.
- (10) Please enter the date that you completed probation.
- (11) Please circle “is” if you are attaching a copy of the document or order showing that the court placed you on probation and, if applicable, sentenced you to a period of confinement. Attaching a copy of the document or 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 document or order.
- (12) Please circle “is” if you are attaching a copy of the court’s order showing that you completed probation and any period of confinement, if you were ordered confined. 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 court’s order. The jail that released you may have given you a document that shows the date you were released from confinement.
- (13) Place a check mark or an “x” on the line in front of the statement that applies to your case. 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 your mark in front of the first statement. (If you checked this statement, you must wait two years from the date of completing your probation to file a petition for nondisclosure.) If your offense is not under one of the Chapters listed in the prior sentence, then place a mark in front of the second statement. (If you have checked the second statement, you can file a petition for an order of nondisclosure on or after the date you complete your term of probation.)
- (14) There is a filing fee associated with filing a petition for order of nondisclosure under Section 411.073. 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. Please contact the clerk for the court in which you are filing the petition to obtain the correct amount of the total filing fee. **NOTE:** You do 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 Sections 411.0745(e), 411.075(a) and 411.075(b), Government 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. Place a check mark or “x” 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” in front of the second statement.

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

Process After You Complete the Petition

If you are eligible for an order of nondisclosure under Section 411.073, the process for obtaining an order under this section is as follows:

First, make sure that you satisfy the waiting period requirement before filing your petition, and check in advance with the clerk’s office to obtain the total

amount of the fee (including the \$28 fee) to file a petition for an order of nondisclosure, unless you are submitting a *Statement of Inability to Afford Payment of Court Costs* in lieu of paying the fee. Next, be sure to complete the correct 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.

A hearing on the petition is not required if the prosecutor does not request a hearing.

If a hearing is scheduled, the court or the clerk will notify you. If there is a hearing, the court may ask questions to establish whether you satisfy the requirements of Sections 411.074 and 411.073. After the hearing, if the court finds that you satisfy the requirements of the statutes and that issuance of the order of nondisclosure is in the best interest of justice, the court should grant your request for the order.

If the court does not hold a hearing, the judge will review your petition to determine whether you satisfy the requirements of the statutes and whether issuance of the order of nondisclosure is in the best interest of justice. If the court finds that you have satisfied the requirements of the law and that the issuance of the order is in the best interest of justice, the court should grant your request for the order.

The court and/or prosecutor will have access to your criminal history record information and will use it to determine if you are eligible to file the petition.

If the court grants the order of nondisclosure, no later than 15 business days after the order issues, the clerk will send a copy of the order to DPS. Then, no later than 10 business days after DPS receives the copy of the order, DPS will seal any criminal history record information that is the subject of the order and forward the order to the state and federal agencies listed in 411.075(b), Government Code. See Section 411.075(b) for a complete list of agencies and entities that DPS must notify.

Cause No. _____
(1)

In the Matter of

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In the

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(2)

_____ County, Texas

(3)

(4)

Petition for Order of Nondisclosure

Under Section 411.073

_____ (5) ("Petitioner") respectfully petitions the court for an order of nondisclosure under Section 411.073, Government Code, for the offense detailed below.

1. The Underlying Order and Completion of Community Supervision

Petitioner was convicted of the misdemeanor offense of _____ (6) in Criminal Cause No. _____ (7) in this court on _____, _____ (8)

Following the conviction, Petitioner was placed on community supervision (hereinafter "probation") on _____, _____. (9) Petitioner's probation was not revoked. Petitioner completed probation, including any term of confinement imposed and payment of all fines, costs, and restitution, if any, on _____, _____. (10)

A copy of the document or order showing that Petitioner was placed on probation **is / is not** (11) attached. The order or document showing that Petitioner completed

probation, including any term of confinement imposed and payment of all fines, costs, and restitution, if any, **is / is not** attached. ⁽¹²⁾

2. Petitioner Satisfies the Requirements of Section 411.073, Government Code

Petitioner satisfies the requirements of Section 411.073, Government Code, in that:

- Petitioner's offense is a misdemeanor other than a misdemeanor under:
 - §106.041, Alcoholic Beverage Code (Driving/Operating Watercraft Under the Influence of Alcohol By Minor),
 - §49.04, Penal Code (Driving While Intoxicated),
 - §49.05, Penal Code (Flying While Intoxicated),
 - §49.06, Penal Code (Boating While Intoxicated),
 - §49.065, Penal Code (Assembling or Operating an Amusement Ride While Intoxicated), or
 - Chapter 71, Penal Code (Organized Crime);
- Following conviction for the offense, Petitioner was placed on probation under a provision of Chapter 42A (formerly Article 42.12), Code of Criminal Procedure, other than Subchapter C (formerly Section 5 of Article 42.12) of that chapter;
- Petitioner completed the period of probation, including any term of confinement imposed and payment of all fines, costs, and restitution, if any, and was not revoked;
- Petitioner has never been previously convicted of or placed on deferred adjudication community supervision (hereinafter "deferred adjudication") for another offense other than a traffic offense punishable by fine only;
- Petitioner has waited the requisite time, as indicated below, before filing this petition.⁽¹³⁾

_____ On or after the second anniversary of the date that Petitioner completed probation, if Petitioner's offense was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code

_____ On or after the date that Petitioner completed probation, if Petitioner's offense was **not** a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code); and

- Petitioner satisfies the requirements of Section 411.074, Government Code.

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

Petitioner satisfies the requirements of Section 411.074, Government Code, in that:

- During the period after the court placed Petitioner on probation, and during any applicable waiting period (as indicated in Section 2 above) after completion of the probation, 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 previously convicted of or placed on deferred adjudication for any of the following:
 - (A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
 - (B) an offense under Texas Penal Code Section 20.04 (aggravated kidnapping);
 - (C) an offense under any of the following sections of the Texas 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, sexual assault or abuse, stalking, or trafficking case);
 - 25.072 (repeated violation of certain court orders or conditions of bond in family violence, sexual assault or abuse, stalking, or trafficking case); or
 - 42.072 (stalking); or
- (D) any other offense involving family violence, as defined by Section 71.004, Family Code; and
- The court has not made an affirmative finding that Petitioner’s offense involved family violence, as defined by Section 71.004, Family Code.

4. Petitioner is Entitled to File a Petition for an Order of Nondisclosure

Petitioner is entitled to file this petition because Petitioner has satisfied the requirements to do so. A person is entitled to file a petition for an order of nondisclosure under Section 411.073, Government Code, if the person:

- was convicted of a misdemeanor other than a misdemeanor listed in Sections 411.073(a) and 411.074(b), Government Code;
- was placed on probation following the conviction;
- completed the period of probation (the probation was not revoked), including any term of confinement imposed and payment of all fines, costs, and restitution, if any;
- has never been previously convicted of or placed on deferred adjudication for another offense other than a traffic offense punishable by fine only;
- has waited the requisite time before filing a petition for an order of nondisclosure under Section 411.073, Government Code;

- has satisfied the requirements of Section 411.074, Government Code, including: not having been convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only, during the period after the person was placed on probation and during any applicable waiting period following the completion of that probation; not having received an affirmative finding by the court that the offense for which the order of nondisclosure is requested involved family violence, as defined by Sec. 71.004, Family Code; and never having been convicted of or placed on deferred adjudication for an offense listed in Section 411.074(b), Government 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 any fees. Petitioner has included: ⁽¹⁴⁾

_____ the required filing fee; or

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

7. Prayer for Relief

Petitioner respectfully prays that the court grant Petitioner's request for an order of nondisclosure under Section 411.073, Government Code.

Respectfully submitted,

(15)

(16)

(17)

(18)

(19)

Cause No. _____

In the Matter of

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In the

§

§

_____ County, Texas

Order of Nondisclosure

On this the _____, day of _____, 20____, the Court considered Petitioner’s Petition for 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 as indicated above, the Court **FINDS** that Petitioner is entitled to file a petition for an 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 Section 411.0725
- Texas Government Code Section 411.073
- Texas Government Code Section 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 Section 411.076(a), Government 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 (return receipt requested) or secure electronic mail, electronic transmission, or facsimile transmission, in accordance with Section 411.075(a), Government Code.

IT IS FURTHER ORDERED that no later than 10 business days after receipt of 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 Section 411.075(b), Government Code, by certified mail (return receipt requested), secure electronic mail, electronic transmission, or facsimile transmission, in accordance with Section 411.075(b), Government 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 received relevant criminal history record information contained in this order or a copy of this order from DPS or a clerk, in accordance with Section 411.075(d), Government 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 Section 411.076(b), Government Code.

Signed on _____.

Judge Presiding

Court/County