



Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.0735

BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT PETITION. THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS REQUESTING AN ORDER OF NONDISCLOSURE UNDER SECTION 411.0735, 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 FORM 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 THE FOLLOWING STATEMENTS MUST BE TRUE:

1. YOU WERE CONVICTED OF A MISDEMEANOR OTHER THAN A MISDEMEANOR UNDER **SECTION 106.041**, ALCOHOLIC BEVERAGE CODE, **SECTION 49.04**, PENAL CODE, **SECTION 49.05**, PENAL CODE, **SECTION 49.06**, PENAL CODE, **SECTION 49.065**, PENAL CODE, OR **CHAPTER 71**, PENAL CODE.
2. YOU ARE NOT ELIGIBLE FOR AN ORDER OF NONDISCLOSURE UNDER SECTION 411.073, GOVERNMENT CODE.
3. YOU COMPLETED THE SENTENCE IN YOUR CASE, INCLUDING ANY TERM OF CONFINEMENT IMPOSED AND PAYMENT OF ALL FINES, COSTS, AND RESTITUTION, IF ANY.
4. YOU HAVE NOT BEEN PREVIOUSLY CONVICTED OF OR PLACED ON DEFERRED ADJUDICATION FOR ANY OTHER OFFENSE OTHER THAN A TRAFFIC OFFENSE PUNISHABLE BY FINE ONLY.
5. YOUR MISDEMEANOR CONVICTION **WAS NOT** FOR AN OFFENSE THAT IS VIOLENT OR SEXUAL IN NATURE, OTHER THAN AN OFFENSE UNDER SECTION 22.01, PENAL CODE (ASSAULT).
6. YOU HAVE WAITED THE REQUIRED TIME (SEE THE DISCUSSION OF WAITING PERIOD REQUIRED UNDER 411.0735 IN THE NONDISCLOSURE OVERVIEW)

BEFORE FILING A PETITION FOR AN ORDER OF NONDISCLOSURE UNDER SECTION 411.0735.

IF THE SIX STATEMENTS ABOVE ARE NOT TRUE, THIS IS NOT THE CORRECT PETITION FOR YOU. You may be eligible to file a petition 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 to file a petition for an order of nondisclosure under another section. Page | 2

Additional Requirements

1. You are **not eligible** for an order of nondisclosure under Sec. 411.0735, or any other section, if you were or have ever been convicted of or placed on deferred adjudication community supervision (hereinafter “deferred adjudication”) for any of the offenses listed below:
 - (i) An offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
 - (ii) An offense under Texas Penal Code Section 20.04 (aggravated kidnapping);
 - (iii) An offense under any of the following Texas Penal Code Sections:
 - 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
 - (iv) Any other offense involving family violence, as defined by Section 71.004, Family Code.

2. You are **not eligible** for an order of nondisclosure under Section 411.0735 if, during the period after the court pronounced the sentence in your case, and during any applicable waiting period, you were convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only.
3. You are **not eligible** for an order of nondisclosure under Sec. 411.0735 if the court made an affirmative finding that the misdemeanor for which the order of nondisclosure is requested involved family violence, as defined by Section 71.004, Family Code.

Instructions for Completing Petition

- (1) Please leave this 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 convicted you of the misdemeanor for which you are requesting an order of nondisclosure. The name of the court is shown on the top of the court’s judgment or order that sentenced you.
- (3) Please enter your name as shown on the court’s order or judgment that sentenced you.
- (4) Please enter the name of the county in which the court that sentenced you is situated. This will be the same county as shown on the court’s order or judgment that sentenced you.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the name of the offense as shown on the court’s order or judgment that sentenced you.
- (7) Please enter the criminal cause number as shown on the court’s order or judgment that sentenced you. Look for *Case No.* on that order or judgment.

- (8) Please enter the date on which you were convicted.
- (9) Please enter the terms of your sentence.
- (10) Please enter the date that you completed your sentence. This should be the date that you were released from jail or discharged from probation or deferred adjudication, and paid all fines, costs, and restitution imposed by the court.
- (11) Please circle “is” if you are attaching a copy of the court’s order or judgment that sentenced you. Attaching a copy of the Court’s order or judgment may expedite the process of 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 or judgment. **NOTE:** You are eligible to file a Petition for Nondisclosure under Section 411.0735 on or after the date that you completed your sentence, if you were convicted of a misdemeanor punishable by fine only, or on or after the second anniversary of the date that you completed your sentence, if you were convicted of a misdemeanor other than a misdemeanor punishable by fine only.
- (12) Please circle “is” if you are attaching evidence showing that you completed your sentence, including evidence that you completed any term of confinement imposed and paid all the fines, costs, and restitution imposed in your case. Attaching a copy of the evidence may speed up obtaining an order of nondisclosure, but it is not required. Please circle “is not” if you are not attaching a copy of evidence showing that you completed your sentence. Such evidence may include a copy of your release or discharge paper. The jail that released you may have given you several documents when you were released. Check those documents to see if any reflects your release date. If any does, you may submit a copy of that document. If you were placed on probation or deferred adjudication, you may submit a copy of the document discharging you from probation or deferred adjudication. If you were ordered to pay a fine, costs, or restitution, you may attach proof of final payment. Do not worry if you do not have a document to attach. However, please remember that you cannot file a petition for nondisclosure until: (1) you have completed your sentence; and (2) at least two years have passed since you completed your sentence, unless you were convicted of an offense punishable by fine only.

- (13) There is a filing fee associated with filing a petition for an order of nondisclosure under Section 411.0735. 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 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 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 this 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 145. 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.

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

(18) Please enter your telephone number.

Process after You Complete the PETITION

If you are eligible for an order of nondisclosure under Section 411.0735, the process for obtaining an order under that section is as follows:

Page | 6

First, be sure to wait the requisite time before filing the petition, and check in advance with the clerk's office to obtain the total amount of the fee (including the \$28 fee) required 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 above, 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 the petition when you file it. The judge will complete the order, if the judge grants your request.

You must file the petition in the court that sentenced you.

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 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 411.0735, Government Code. After the hearing, if the court determines 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 statutes 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 order, DPS will seal the criminal history record information that is the subject of the order and forward a copy of 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 411.0735**

_____⁽⁵⁾ (“Petitioner”) respectfully petitions this court for an order of nondisclosure under Section 411.0735, Government Code, for the offense detailed below.

1. The Underlying Order and Completion of Period of Confinement

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

Following the conviction, Petitioner was sentenced to _____⁽⁹⁾. Petitioner completed the sentence on _____, _____⁽¹⁰⁾. A copy of the court’s judgment or document showing Petitioner’s sentence **is / is not**⁽¹¹⁾ attached. Evidence of Petitioner’s completion on the sentence, including any term of confinement imposed and payment of all fines, costs, and restitution, if any, **is / is not**⁽¹²⁾ attached.

2. Petitioner Satisfies the Requirements of Section 411.0735, Government Code

Petitioner satisfies the requirement under Section 411.0735, Government Code, in that:

- Petitioner is not eligible for an order of nondisclosure under Section 411.073, Government Code.

- Petitioner was convicted of a misdemeanor other than a misdemeanor under any of the following:
 - Sec. 106.041, Alcoholic Beverage Code (Driving/Operating Watercraft Under the Influence of Alcohol By Minor),
 - Sec. 49.04, Penal Code (Driving While Intoxicated),
 - Sec. 49.05, Penal Code (Flying While Intoxicated),
 - Sec. 49.06, Penal Code (Boating While Intoxicated),
 - Sec. 49.065, Penal Code (Assembling or Operating an Amusement Ride While Intoxicated), or
 - Chapter 71, Penal Code (Organized Crimes);
- Petitioner completed the sentence in the misdemeanor case, including any term of confinement imposed and payment of all fines, costs, and restitution, if any;
- Petitioner satisfies the basic eligibility requirements of Section 411.074, Government Code;
- Petitioner has never been previously convicted of or placed on deferred adjudication for another offense other than a traffic offense punishable by fine only;
- The offense for which the order of nondisclosure is requested is not violent or sexual in nature. Per Section 411.0735(c-1), Government Code, this requirement does not include an assault under Section 22.01, Penal Code; and
- Petitioner has waited the requisite time before filing this petition. If Petitioner's offense is punishable by fine only, Petitioner may file this petition on or after the date that Petitioner completed the sentence in the case. Otherwise, Petitioner must wait 2 years after completing the sentence in his or her case before filing this petition.

3. Petitioner Satisfies the Requirements of Section 411.074, Government Code

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

- During the period after the court pronounced the sentence for the offense for which the order of nondisclosure is requested, and during the two-year period following Petitioner's completion of the sentence, if the misdemeanor was a Class A or B misdemeanor, Petitioner was not convicted of or placed on deferred adjudication for any offense other than

a traffic offense punishable by fine only. If the offense was a misdemeanor punishable by fine only, there is no waiting period.

- 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 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 did not make an affirmative finding that the offense for which the order of nondisclosure is requested 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 each of the requirements necessary to do so. A person is entitled to file a petition for an order of nondisclosure under Section 411.0735, Government Code, if the person:

- Was convicted and sentenced for a misdemeanor other than a misdemeanor listed under Section 411.0735(a)(1), Government Code, which includes the following:
 - Sec. 106.041, Alcoholic Beverage Code (Driving/Operating Watercraft Under the Influence of Alcohol By Minor),
 - Sec. 49.04, Penal Code (Driving While Intoxicated),
 - Sec. 49.05, Penal Code (Flying While Intoxicated),
 - Sec. 49.06, Penal Code (Boating While Intoxicated),
 - Sec. 49.065, Penal Code (Assembling or Operating an Amusement Ride While Intoxicated), or
 - Chapter 71, Penal Code (Organized Crimes);
- Is not eligible for an order of nondisclosure under Section 411.073, Government Code;
- Completed the sentence in the case, 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 satisfied the requirements of Section 411.074, Government Code, including: not receiving a conviction or deferred adjudication for any offense other than a traffic offense punishable by fine only, during the period after the court pronounced the sentence for the misdemeanor, and during any applicable waiting period; not having ever been convicted of or placed on deferred adjudication for an offense listed in 411.074(b); and not having received an affirmative finding by the court that the misdemeanor for which the order of nondisclosure is requested involved family violence as defined by Section 71.004, Family Code; and
- Has waited the requisite time before filing a petition for an order of nondisclosure under Section 411.0735, 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 fee. Petitioner has included ⁽¹³⁾

_____ the required filing fee.

_____ 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 411.0735, Government Code.

Respectfully submitted,

(14)

(15)

(16)

(17)

(18)

Cause No. _____

In the Matter of

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In the

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_____ 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-reference criminal cause no. _____, shall be sealed and disclosed by the court only to individuals or agencies listed in Section 411.076(a), Government Code.

IT IS FURTHER ORDERED that no later than the 15th business day after the date 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 copy of this order to the state and federal agencies listed in 411.075(b), Government Code, by certified mail (return receipt requested) or 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 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 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