



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 SECTION 411.0725, 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 THIS LINK: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

TO BE ELIGIBLE TO USE THIS PETITION, THE FOLLOWING STATEMENTS MUST BE TRUE:

1. You are not eligible to receive an order of nondisclosure under Section 411.072.
2. You were placed on deferred adjudication for the offense for which the order of nondisclosure is requested.
3. You received a discharge and dismissal of the offense for which you are requesting an order of nondisclosure.
4. You satisfy the requirements of Section 411.074, Government Code.
5. You have waited the applicable waiting period before filing this petition.

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 discharge and dismissal 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 your mark in front of the second statement. If you check this statement, you must wait two years after your discharge and dismissal before you can file a petition for an order of nondisclosure. If your offense is not one under any of the chapters mentioned above, please place a mark 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 discharge and dismissal.
- (17) There is a filing fee associated with filing a petition for order of nondisclosure under Section 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 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. 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 Section 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 Sections 411.0725 and 411.074. 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 Sections 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 Section 411.075(b), Government Code. *See* Section 411.075(b) for a complete list of agencies and entities that DPS must notify.