



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 MODEL PETITION FORM AND INSTRUCTIONS. THIS FORM AND THESE INSTRUCTIONS ARE ONLY FOR PERSONS SEEKING AN ORDER OF NONDISCLOSURE UNDER SECTION 411.0725, GOVERNMENT CODE. DO NOT ATTEMPT TO COMPLETE A PETITION FOR NONDISCLOSURE WITHOUT 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 ON THE OCA WEBSITE AT THIS LINK: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

NOTE: You are not eligible for an order of nondisclosure under Section 411.0725 if your offense occurred prior to September 1, 2015. If your offense occurred prior to September 1, 2015, this is not the correct form and instructions to use for your offense. Please go to the form and instructions for offenses which occurred prior to September 1, 2015, which are available at this link: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

Instructions for Completing the Petition

- (1) Please leave this line blank. This number is not the number of your criminal case. A new civil case will be created when you file this petition. The clerk of the court (hereinafter "clerk") will assign a new cause number to the petition when the clerk receives it. The clerk will enter the 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 (A.K.A. "the Judgment").

- (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 your order of deferred adjudication.
- (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.
- (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 order of deferred adjudication indicates whether the offense was a misdemeanor or felony.
- (8) Please enter the criminal cause number as it appears on the order that placed you on deferred adjudication. Look for *Case No.* on the order of deferred adjudication.
- (9) Please enter the date the term of your deferred adjudication began. This date is on the order of deferred adjudication.
- (10) Please enter the date the term of your deferred adjudication ended. This date is 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 court’s order which 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 court’s order that placed you on deferred adjudication.
- (12) Please circle “is” if you are attaching a copy of the court’s order that discharged and dismissed the proceedings against you. Please circle “is not” if you are not attaching a copy of the court’s order that discharged and dismissed the proceedings against you.

- (13) Please enter the date as it appears on the court's order of 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. If you marked the last statement (D), circle "is" if you are attaching a list of prior convictions or offenses, or circle "is not" if you are not attaching a list of your prior convictions or offenses.
- (15) 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 have checked this statement, you must wait five years after your discharge and dismissal from deferred adjudication 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 have checked this statement, you must wait two years from the date of discharge and dismissal from deferred adjudication to file a petition for an order of nondisclosure.) If your offense is not one under the chapters of the Penal Code listed in the prior sentence, then place a mark in front of the third statement. (If you have checked the third statement, you can file a petition for an order of nondisclosure on or after the date of your discharge and dismissal from deferred adjudication.)
- (16) 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 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. 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.

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

Process After You Complete the Petition

Assuming that you are not eligible for an order of nondisclosure under Section 411.0725, the process for obtaining an order under this section is as follows:

First, make sure that you meet the waiting period requirement before filing your petition; check in advance with the clerk’s office to obtain the total amount of the filing fee (including the \$28 fee) that you will have to pay, unless you are submitting a *Statement of Inability to Afford Payment of Court Costs* in lieu of paying the filing fee; and make sure that you complete the correct petition, namely, the ***Petition for Order of Nondisclosure under Section 411.0725***, 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 the petition when you file it. In this case, you want to submit the *Order of Nondisclosure* provided with these materials. Ask the clerk whether you need to submit the proposed order when you file the petition or on a later date. 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 do 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 before the 45th day after the date the prosecutor receives notice from the court; and the court determines that you are entitled to file the petition and that issuance of the order is in the best interest of justice.

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 411.0725. 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 will 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. You are entitled to file the petition if you satisfy the requirements of Sections 411.074 and 411.0725. If the court finds that you satisfy the requirements of the statutes and that issuance of the order is in the best interest of justice, the court will 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, not later than 15 business days after the date the order of nondisclosure issues, the clerk will send all relevant criminal history record information contained in the order or a copy of the order to DPS. Then, not later than 10 business days after the date DPS receives the relevant criminal history record information or the copy of the order, DPS will seal any criminal history record information maintained by DPS that is the subject

of the order and send the relevant criminal history record information or a copy of the order to all 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.