



An Overview of Orders of Nondisclosure

What is an Order of Nondisclosure?

An order of nondisclosure is a court order prohibiting public entities, including courts, clerks of the court, law enforcement agencies, and prosecutorial offices, from disclosing certain criminal records. If you have a criminal record, you may benefit from obtaining an order of nondisclosure.

An order of nondisclosure legally frees you from having to disclose certain information about your criminal history in response to questions on job applications. You are not required to disclose information related to an offense that is the subject of an order of nondisclosure.

Please note that an order of nondisclosure applies to a particular criminal offense. The order does not apply to all offenses that may be on your criminal history record, but you may obtain multiple orders for multiple offenses.

As mentioned above, an order of nondisclosure prohibits entities holding information about a certain offense on your criminal history record from disclosing that information. This is a general rule. There are exceptions. Law enforcement and certain state agencies will be able to obtain the information, even if the court grants an order. For a list of such agencies, see Government Code Section 411.0765.

What are the Different Types of Order of Nondisclosure?

The following laws address the types of nondisclosure petitions and orders available:

- Section 411.072, Gov't Code (Deferred Adjudication Community Supervision; Certain Nonviolent Misdemeanors);
- Section 411.0725, Gov't Code (Deferred Adjudication Community Supervision; Felonies and Certain Misdemeanors);
- Section 411.0726, Gov't Code (Deferred Adjudication Community Supervision; Certain Driving While Intoxicated and Boating While Intoxicated Misdemeanors);
- Section 411.0727, Gov't Code (Procedure Following Successful Completion

- of Veterans Treatment Court Program);
- Section 411.0728, Gov't Code (Certain Victims of Trafficking of Persons or Compelling Prostitution);
- Section 411.0729, Gov't Code (Procedure for Certain Veterans Placed on Community Supervision);
- Section 411.073, Gov't Code (Community Supervision Following Conviction; Certain Misdemeanors);
- Section 411.0731 Gov't Code (Procedure for Community Supervision Following Conviction; Certain Driving While Intoxicated Convictions);
- Section 411.0735, Gov't Code (Conviction and Confinement; Certain Misdemeanors); and
- Section 411.0736, Gov't Code (Procedure for Conviction; Certain Driving While Intoxicated Convictions)

Each of the sections listed above has specific requirements and procedures that you must satisfy in order to obtain an order of nondisclosure. The requirements and procedures for each section are different. You must determine which section is correct for you to use when requesting an order of nondisclosure.

IF A PETITION IS REQUIRED, YOU MUST FILE IT WITH THE CLERK OF THE COURT ("CLERK") THAT SENTENCED YOU OR PLACED YOU ON COMMUNITY SUPERVISION, INCLUDING DEFERRED ADJUDICATION COMMUNITY SUPERVISION. THE CLERK WILL FORWARD THE PETITION TO THE COURT.

Documents Needed

You may need one or more of the following documents to help you to determine whether you are eligible for an order of nondisclosure:

- 1) a copy of the judgment in your case;
- 2) a signed order or document showing that the judge granted you an early termination or reduced your period of community supervision or confinement;
- 3) a signed order or document showing that you completed community supervision, including any term of confinement and payment of all fines, costs, and restitution imposed;
- 4) a **discharge** order (an order or document showing that you were discharged from community supervision);
- 5) a **discharge and dismissal** order (an order showing that the judge set aside the verdict in the case or permitted you to withdraw your plea and dismissed the proceedings against you in accordance with Code of Criminal Procedure [Article 42A.701](#) (formerly Section 20(a) of Article 42.12) or [42A.111](#); and
- 6) a signed order or judgment reflecting any affirmative findings by the court,

including any finding that: (1) it is not in the best interest of justice for you to receive an order of nondisclosure; (2) the offense involved family violence; or (3) you must register as a sex offender.

Basic Eligibility Requirements for Most Orders of Nondisclosure

Page | 3

In addition to other requirements, as determined by the type of order, you must **FIRST** satisfy several basic requirements before the court can issue an order, unless you are requesting an order under Government Code Section 411.0729 or 411.0728. The basic requirements for an order are listed in Government Code Section 411.074.

There are three basic requirements under Section 411.074 (see Nos. 1 thru 3 immediately below). **If you do not satisfy these requirements, YOU ARE INELIGIBLE FOR AN ORDER UNDER SECTION 411.072, 411.0725, 411.0726, 411.0727, 411.073, 411.0731, 411.0735, OR 411.0736, and there is no need to request an order because the court will not be able to issue one.**

1. You are ineligible for an order of nondisclosure if you have **ever** been previously convicted of or placed on deferred adjudication community supervision for any one of the following (this includes the offense for which the order is requested):
 - (A) an offense requiring you to register as a sex offender;
 - (B) Aggravated Kidnapping, an offense under Penal Code Section 20.04;
 - (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, 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 Family Code Section 71.004.

2. You are **ineligible** for an order of nondisclosure if the court made an **affirmative finding** that your offense involved family violence.
3. You are **ineligible** for an order of nondisclosure: (1) if you were convicted of or placed on deferred adjudication community supervision for another offense, excluding traffic offenses punishable by fine only, **after** the court convicted or placed you on deferred adjudication community supervision for the offense for which the order is sought; or (2) if you were convicted of or placed on deferred adjudication community supervision for another offense, excluding traffic offenses punishable by fine only, during the time you were required to wait before filing your petition for an order of nondisclosure (*see the explanation provided in the note below*).

Note: There are waiting periods for some orders of nondisclosure, and if you are convicted of or placed on deferred adjudication community supervision for another offense during the waiting period, excluding traffic offenses punishable by fine only, you are **ineligible** for an order of nondisclosure.

Determining Your Eligibility for an Order of Nondisclosure

In order to make it easier for you to identify which type of order of nondisclosure, if any, is correct for you, this overview will lead you through a series of questions. After answering the questions, you will know whether you are **ineligible** for an order of nondisclosure and should proceed no further, or are eligible for an order of nondisclosure and should proceed to a particular section below under **Types of Nondisclosure** for additional information and instructions. Each type of order has additional requirements that you must satisfy to remain eligible for an order under the section. These requirements are in addition to the basic requirements under Section 411.074, if any of those requirements apply to you.

The following five questions will assist you in determining which nondisclosure section, if any, applies to your offense.

Question 1:

Is the offense for which the order is requested an offense under one of the following sections?

Section 43.02, Penal Code (Prostitution);

Section 481.120, Health and Safety Code (Delivery of Marihuana), punishable as a Class B misdemeanor;

Section 481.121, Health and Safety Code (Possession of Marihuana), punishable

as a Class B misdemeanor; or

Section 31.03, Penal Code (Theft), punishable as a Class C or B misdemeanor;

- If your answer to Question 1 is “NO,” proceed to Question 2.
- If your answer is “YES,” you should carefully go through the discussion under Section 411.0728 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0728** to determine whether you qualify to file a petition under that section. If you find that you are ineligible for an order of nondisclosure under Section 411.0728, you should return to this point in the overview and continue with Question 2.

Question 2:

Is the offense for which the order is requested an offense for which you successfully completed a veterans treatment court program, as defined by Chapter 124, Gov’t Code, or former law?

- If your answer to Question 2 is “NO,” proceed to Question 3.
- If your answer is “YES,” you should carefully go through the discussion under Section 411.0727 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0727** to determine whether you qualify to file a petition under that section. If you find that you are ineligible for an order of nondisclosure under Section 411.0727, you should return to this point in the overview and continue with Question 3.

Question 3:

Is the offense for which the order is requested an offense for which you successfully completed a veterans reemployment program under Subchapter H-1, Chapter 42A, Code of Criminal Procedure?

- If the answer to Question 3 is “No,” proceed to Question 4.
- If your answer is “YES,” you should carefully go through the discussion under Section 411.0729 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0729** to determine whether you qualify to file a petition under that section. If you find that you are ineligible for an order of nondisclosure under Section 411.0729, you should return to this point in the overview and continue with Question 4.

Question 4:

Is the offense for which the order is requested a Class B misdemeanor driving while intoxicated or boating while intoxicated offense under Section 49.04 or 49.06, Penal Code, respectively?

- If your answer to Question 4 is “NO,” proceed to Question 5.
- If your answer is “YES,” were you placed on deferred adjudication following your plea to the offense?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0726 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0726** to determine whether you qualify to file a petition under that section. If you find that you are ineligible for an order of nondisclosure under Section 411.0726, you should return to this point in the overview and continue with Question 5, **but only if the offense for which the order is requested is driving while intoxicated**. Otherwise, you are ineligible for an order of nondisclosure for your boating while intoxicated offense and none of the remaining questions apply to you.
 - If your answer is “NO,” proceed to Question 5.

Question 5:

Is the offense for which the order is requested a Class B misdemeanor driving while intoxicated offense under Section 49.04, Penal Code?

- If your answer to Question 5 is “YES,” were you placed on probation following your conviction for the offense?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0731 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0731** to determine whether you qualify to file a petition under that section. If you find that you are ineligible under Section 411.0731, you may be eligible for an order of nondisclosure under Section 411.0736. You should carefully go through the discussion under 411.0736 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0736** to determine whether you qualify to file a petition under that section. If you find that you are ineligible for an order under Section 411.0736 also, you are ineligible for an order of nondisclosure for your driving while intoxicated offense and none of the remaining questions apply to you.

- If your answer is “NO,” you should carefully go through the discussion under Section 411.0736 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0736** to determine whether you qualify to file a petition under that section. If you find that you are **ineligible** for an order under Section 411.0736, you are **ineligible** for an order of nondisclosure for your driving while intoxicated offense and none of the remaining questions apply to you.
- If your answer to Question 5 is “NO,” proceed to Question 6.

Question 6:

Is the offense for which the order is requested a felony?

- If your answer to Question 6 is “NO,” proceed to Question 7.
- If your answer is “YES,” were you placed on deferred adjudication for that offense?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0725 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0725** to determine whether you qualify to file a petition under that section. If you find that you are **ineligible** for an order of nondisclosure under Section 411.0725, you are **ineligible** for an order of nondisclosure for your felony offense and none of the remaining questions apply to you.
 - If your answer is “NO,” you are **ineligible** for an order of nondisclosure for your felony offense and none of the remaining questions apply to you.

Question 7:

Is the offense for which the order is requested a misdemeanor for which you were placed on deferred adjudication?

- If your answer to Question 7 is “YES,” other than the offense for which the order is requested, have you ever been previously convicted of or placed on deferred adjudication for an offense other than a traffic offense punishable by fine only?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0725 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0725** to determine

whether you qualify to file a petition under that section.

- If your answer is “NO,” is the offense for which the order is requested a misdemeanor in which the judge entered an affirmative finding that it is not in the best interest of justice for you to receive an automatic order of nondisclosure and filed a statement of this affirmative finding in the papers of your case?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0725 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0725** to determine whether you qualify to file a petition under that section.
 - If your answer is “NO,” is the offense for which the order is requested a misdemeanor under Penal Code Chapter 20 (Kidnapping, Unlawful Restraint, or 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)?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.0725 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0725** to determine whether you qualify to file a petition under that section.
 - If your answer is “NO,” you should carefully go through the discussion under Section 411.072 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.072** to determine whether you qualify to file a petition under that section.
- If your answer to Question 7 is “NO,” other than the offense for which the order is requested, have you ever been previously convicted of or placed on deferred adjudication for an offense other than a traffic offense punishable by fine only?
 - If your answer is “YES,” you are **ineligible** for an order of nondisclosure and none of the remaining questions apply to you.
 - If your answer is “NO,” is the offense for which the order is requested one of the following: Alcoholic Beverage Code Sec. 106.041 (Driving or Operating Watercraft under the Influence of Alcohol by Minor);

Penal Code Secs. 49.04 (Driving While Intoxicated), 49.05 (Flying While Intoxicated), 49.06 (Boating While Intoxicated), or 49.065 (Assembling or Operating an Amusement Ride While Intoxicated); or Penal Code Chapter 71 (Organized Crime)?

- If your answer is “YES,” you are **ineligible** for an order of nondisclosure, and none of the remaining questions apply to you. (This assumes that you do not qualify under Section 411.0726, 411.0731, or 411.0736, Gov’t Code. See Questions 4 and 5 above.)
- If your answer is “NO,” were you placed on probation for the offense for which the order of nondisclosure is requested, including a probation that required you to serve a term of confinement as a condition of the probation or to be placed on probation after you served a term of confinement?
 - If your answer is “YES,” you should carefully go through the discussion under Section 411.073 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.073** to determine whether you qualify to file a petition under that section.
 - If your answer is “NO,” you should carefully go through the discussion under Section 411.0735 in the **Types of Nondisclosure** section below and the **Instructions for Completing the Model Petition for an Order of Nondisclosure under Section 411.0735** to determine whether you qualify to file a petition under that section.

Types of Nondisclosure

At this point, it is time to review the **additional** requirements for specific sections of the Government Code to see if you qualify for an order of nondisclosure under the section that applies to you.

THE INFORMATION PROVIDED BELOW ASSUMES YOU HAVE DETERMINED THAT YOU MEET THE BASIC ELIGIBILITY REQUIREMENTS DISCUSSED ABOVE FOR AN ORDER OF NONDISCLOSURE, IF THOSE REQUIREMENTS APPLY TO THE TYPE OF ORDER YOU ARE REQUESTING, AND HAVE IDENTIFIED THE TYPE OF NONDISCLOSURE, IF ANY, THAT APPLIES TO YOUR OFFENSE. THE INFORMATION PROVIDED ABOVE IDENTIFIES THE CIRCUMSTANCES AND OFFENSES THAT MAKE YOU INELIGIBLE FOR AN ORDER OF NONDISCLOSURE UNDER SOME OR ALL OF THE SECTIONS LISTED BELOW. IF YOU HAVE NOT READ THE INFORMATION PROVIDED ABOVE AND

ANSWERED THE QUESTIONS DESIGNED TO HELP YOU DETERMINE WHICH ORDER OF NONDISCLOSURE, IF ANY, APPLIES TO YOUR OFFENSE, PLEASE DO SO BEFORE READING ANY FURTHER.

SECTION 411.072 – Procedure for Deferred Adjudication Community Supervision for Certain Nonviolent Misdemeanors

Page | 10

1. You are **ineligible** for an order of nondisclosure under Section 411.072 if you received a discharge and dismissal prior to September 1, 2017.
2. You are **ineligible** for an order of nondisclosure under Section 411.072 if it has not been at least 180 days since the court placed you on deferred adjudication.
3. You are **ineligible** for an order of nondisclosure under Section 411.072 if the court entered an affirmative finding that it is not in the best interest of justice for you to receive an automatic order of nondisclosure under Section 411.072. If the court entered this type of finding, you may still qualify for an order under Section 411.0725.
4. You are **ineligible** for an order of nondisclosure under Section 411.072 if you were placed on deferred adjudication for a felony offense.
5. You are **ineligible** for an order of nondisclosure under Section 411.072 if the offense for which the order of nondisclosure is requested is one of the following:
 - Driving While Intoxicated (Section 49.04, Penal Code);
 - Boating while Intoxicated (Section 49.06, Penal Code); or
 - Any misdemeanor offense under Penal Code Chapter 20 (Kidnapping, Unlawful Restraint, or 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)
6. You are **ineligible** for an order of nondisclosure under Section 411.072 if you have been previously convicted of or placed on deferred adjudication community supervision for another offense, except for a traffic offense punishable by fine only. In other words, you must be a first-time offender, but traffic offenses punishable by fine only do not count against you.

You do not have to file a petition to obtain an order of nondisclosure under

Section 411.072. Instead, the statute requires the court to make certain determinations with respect to your eligibility for an order under the section if the court grants you a discharge and dismissal under [Article 42A.111, Code of Criminal Procedure](#). If you are eligible for an order under Section 411.072, and the court failed to consider you for one, you may present evidence to show that you are entitled to the order by completing and submitting this [letter](#) to the court and paying a \$28 fee. If you are unable to pay the fee, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

If you are entitled to the order, the court cannot issue it until you have served a minimum of 180 days on deferred adjudication.

The court will have access to your criminal history record information and will use it to determine your eligibility for the order.

SECTION 411.0725 – Procedure for Deferred Adjudication Community Supervision – for Felonies and Certain Misdemeanors

1. You are **ineligible** for an order of nondisclosure under Section 411.0725 if you **QUALIFY** for an order of nondisclosure under Section 411.072. You must be certain that you do not qualify under Section 411.072 before proceeding under Section 411.0725.
2. You are **ineligible** for an order of nondisclosure under Section 411.0725 if your offense is driving or boating while intoxicated under Penal Code Section 49.04 or 49.06, respectively.
3. You are **ineligible** for an order of nondisclosure under Section 411.0725 if you were not placed on deferred adjudication community supervision for your offense. If you were convicted, this is not the correct section for you.
4. You are **ineligible** for an order of nondisclosure under Section 411.0725 if you did not receive a discharge and dismissal of the proceedings.
5. You are **ineligible** for an order of nondisclosure under Section 411.0725 if you were convicted of or placed on deferred adjudication for another offense, other than a traffic offense punishable by fine only, after the court placed you on deferred adjudication or during the time you were required to wait before filing your petition (the waiting period is provided in No. 6 below).

6. Waiting Period. You are eligible to file a petition for an order of nondisclosure under Section 411.0725 as follows:
 - a) Immediately after discharge and dismissal, if your offense is a misdemeanor but **not** a misdemeanor listed in (b) below;
 - b) On or after the second anniversary of your discharge and dismissal, if you were placed on deferred adjudication for a misdemeanor offense under Penal Code Chapter 20 (Kidnapping, Unlawful Restraint, or Smuggling of Persons), 21 (Sexual Offenses), 22 (Assaultive Offenses), 25 (Offenses against the Family), 42 (Disorderly Conduct and Related Offenses), 43 (Public Indecency Offenses), or 46 (Weapons Offenses); or
 - c) On or after the fifth anniversary of your discharge and dismissal if your offense is a felony.

To obtain an order of nondisclosure under Section 411.0725, if you are eligible, you must file a petition. The form and instructions for obtaining an order under Section 411.0725 are available at this [link](#).

You must file the petition with the court that placed you on deferred adjudication.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0726 – Procedure for Deferred Adjudication Community Supervision for Certain Driving or Boating While Intoxicated Misdemeanors

1. You are **ineligible** for an order of nondisclosure under Section 411.0726 if the offense for which the order of nondisclosure is requested is something other than driving or boating while intoxicated under Penal Code Section 49.04 or 49.06, respectively.
2. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you were not placed on deferred adjudication for the offense for which the order of nondisclosure is requested.
3. You are **ineligible** for an order of nondisclosure under Section 411.0726 if the judge made and filed an affirmative finding that it is not in the best interest of justice for you to receive an automatic order of nondisclosure for your offense. (*Note: The statute lists this as a requirement, although a*

person is ineligible for an automatic order of nondisclosure under Section 411.072 if the underlying offense is driving or boating while intoxicated.)

4. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you did not receive a discharge and dismissal of the offense for which the order of nondisclosure is requested.
5. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you have been previously convicted of or placed on deferred adjudication community supervision for another offense, except for a traffic offense punishable by fine only. In other words, you must be a first-time offender, but traffic tickets punishable by a fine only do not count against you.
6. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you commission of the offense of driving while intoxicated caused a motor vehicle accident involving another person, including a passenger in your vehicle, even if that person did not suffer death or bodily injury.
7. You are **ineligible** for an order of nondisclosure under Section 411.0726 if, at the time of the offense, you held a commercial driver's license or commercial learner's permit, or your alcohol concentration was 0.15 or more.
8. You are **ineligible** for an order of nondisclosure under Section 411.0726 if the punishment for your offense was enhanced under Penal Code Section 49.09.
9. Waiting Period. You must wait **two years** following your discharge and dismissal before you may file a petition for an order of nondisclosure under Section 411.0726.

To obtain an order under Section 411.0726, you must file a petition. The form and instructions for obtaining an order of nondisclosure under Section 411.0726 are available at this [link](#).

You must file the petition with the court that placed you on deferred adjudication community supervision.

The court must find that you are entitled to file the petition and issuance of the order is in the best interest of justice before the court can grant the order. Also, if the prosecuting attorney presents evidence that shows your offense resulted in a motor vehicle accident involving another person, including a passenger in your vehicle, the court cannot grant the order.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0727 – Procedure Following Successful Completion of Veterans Treatment Court Program

1. If you did not successfully complete a veterans treatment court program (“program”) for the offense for which the order of nondisclosure is requested, you are **ineligible** for an order of nondisclosure under Section 411.0727.
2. If you entered the program because you were convicted of an offense involving the operation of a motor vehicle while intoxicated, you are **ineligible** for an order of nondisclosure under Section 411.0727.
3. If you have been previously convicted of one of the following offenses, you are **ineligible** for an order of nondisclosure under Section 411.0727:
 - Section [15.03](#), Penal Code (Criminal Solicitation), if the offense is punishable as a felony of the first degree;
 - Section [19.02](#), Penal Code (Murder);
 - Section [19.03](#), Penal Code (Capital Murder);
 - Section [20.04](#), Penal Code (Aggravated Kidnapping);
 - Section [20A.02](#), Penal Code (Trafficking of Persons);
 - Section [21.11\(a\)\(1\)](#), Penal Code (Indecency with a Child);
 - Section [22.011](#), Penal Code (Sexual Assault);
 - Section [22.021](#), Penal Code (Aggravated Sexual Assault)
 - Section [22.04\(a\)\(1\)](#), Penal Code (Injury to a Child, Elderly Individual, or Disabled Individual), if the offense is punishable as a felony of the first degree and the victim of the offense is a child;
 - Section [29.03](#), Penal Code (Aggravated Robbery);
 - Section [30.02](#), Penal Code (Burglary), if the offense is punishable as a first degree felony under Subsection (d) of that section and the actor committed the offense with the intent to commit a felony under Section [21.02](#), [21.11](#), [22.011](#), [22.021](#), or [25.02](#), Penal Code;
 - Section [43.05](#), Penal Code (Compelling Prostitution);
 - Section [43.25](#), Penal Code (Sexual Performance by a Child);
 - Chapter [481](#), Health and Safety Code, for which punishment is increased under Section [481.140](#) of that code (Use of Child in Commission of Offense) or Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted

- of an offense for which punishment was increased under any of those subsections;
 - Section [481.1123](#), Health and Safety Code (Manufacture or Delivery of a Substance in [Penalty Group 1-B](#)), if the offense is punishable under Subsection (d), (e), or (f) of that section; or
 - A sexually violent offense, as defined by Code of Criminal Procedure [Article 62.001](#).
4. If you were convicted of a felony offense any time during the two years following your successful completion of the program, you are **ineligible** for an order of nondisclosure under Section 411.0727.
 5. Waiting Period. You must wait **two years** from the date that you successfully completed the program before you may file a petition for an order of nondisclosure under Section 411.0727.

To obtain an order of nondisclosure under Section 411.0727, you must file a petition. The form and instructions for obtaining an order under Section 411.0727 are available at this [link](#).

You must file the petition with the court that placed you in the program.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0728 – Procedure for Certain Victims of Trafficking of Persons

1. You are **ineligible** for an order of nondisclosure under Section 411.0728 if the offense for which the order of nondisclosure is requested is not one or more of the following offenses:
 - prostitution (felony or misdemeanor),
 - delivery or possession of marihuana (Class B misdemeanor only), or
 - theft (Class C or B misdemeanor only).
2. You are **ineligible** for an order of nondisclosure under Section 411.0728 if you did not commit the offense for which the order of nondisclosure is requested **solely** as a victim of trafficking of persons, continuous trafficking of persons, or compelling prostitution.

3. You are **ineligible** for an order of nondisclosure under Section 411.0728 if you were not convicted of or placed on deferred adjudication community supervision for the offense for which the order of nondisclosure is requested.
4. You are **ineligible** for an order of nondisclosure under Section 411.0728 if you did not provide assistance to law enforcement or a prosecuting attorney who requested your assistance in the investigation or prosecution of an offense involving human trafficking, compelling prostitution, or other similar federal offense, unless your failure to provide assistance was due to your age or a physical or mental disability resulting from being a victim of an offense involving human trafficking, compelling prostitution, or other similar federal offense.
5. *(For individuals filing a second or subsequent petition under Section 411.0728)* You are **ineligible** for an order of nondisclosure under Section 411.0728 if you committed the offense for which the order of nondisclosure is requested on or after you filed your first petition under this section.
6. **Waiting Period.** You must wait **a year** from the date that you: (1) completed the sentence in your case, including any term of confinement imposed and payment of all fines, costs, and restitution imposed; or (2) received a dismissal and discharge from deferred adjudication before you may file a petition for an order of nondisclosure under Section 411.0728.

Before the court can issue an order under this section, the court must determine that: (1) you committed the offense for which the order of nondisclosure is requested solely as a victim of trafficking of persons, continuous trafficking of persons, or compelling prostitution; (2) you did not commit the offense for which the order of nondisclosure is requested on or after you submitted your first petition under this section, if any; and (3) issuance of the order of nondisclosure is in the best interest of justice.

To obtain an order of nondisclosure under Section 411.0728, you must file a petition. The forms and instructions for filing a petition under Section 411.0728 are available at this [link](#).

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

If you committed more than one offense solely as a victim of trafficking of persons, continuous trafficking of persons, or compelling prostitution, you may file multiple petitions for an order of nondisclosure in the district court in the county where you were most recently convicted or placed on deferred adjudication. You may request the court to consolidate the petitions. If the court grants your request, the court will consolidate the petitions and exercise jurisdiction over all of the petitions, regardless of the county in which the offenses occurred.

SECTION 411.0729 – Procedure for Certain Veterans Placed on Community Supervision

1. If the offense for which the order of nondisclosure is requested is not a misdemeanor offense, you are **ineligible** for an order of nondisclosure under Section 411.0729.
2. If you were not placed on community supervision, including deferred adjudication community supervision, for the offense for which the order of nondisclosure is requested, and if you did not successfully complete all conditions of community supervision, you are **ineligible** for an order of nondisclosure under Section 411.0729.
3. If you are not a veteran of the United States Armed Forces, including a member of the reserves, national guard, or state guard, you are **ineligible** for an order of nondisclosure under Section 411.0729.
4. If you did not successfully complete a veterans reemployment program approved by the court after committing the offense for which the order of nondisclosure is requested, you are **ineligible** for an order of nondisclosure under Section 411.0729.
5. Waiting Period. There is none. This order is available immediately upon successful completion of the veterans reemployment program and the conditions of community supervision.

Before a court can issue an order under this section, the court must determine that: (1) you have successfully completed a veterans reemployment program approved by the court and the conditions of your community supervision; and (2) issuance of the order of nondisclosure is in the best interest of justice.

You do not have to file a petition to obtain an order of nondisclosure under Section 411.0729. Instead, unless the court determines that it is not in the best interest of justice for an order to issue, the court must enter an order if you

successfully complete the program and term and conditions of your community supervision. The court must hold a hearing to determine your eligibility for the order. *[NOTE: The statute does not require you to file a petition, but the court may require you to file one, or the court may forget to hold a hearing, in which case, you may want to file a petition. The forms and instructions for filing a petition under Section 411.0729 are available at this [link](#).]*

You may have to pay various filing fees and court costs if you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.073 – Procedure for Community Supervision Following Conviction for Certain Misdemeanors

1. You are **ineligible** for an order of nondisclosure under Section 411.073 if you served straight time or were placed on deferred adjudication community supervision for the offense for which the order of nondisclosure is requested. *You must have been placed on community supervision (probation, not deferred adjudication) after you were convicted of the offense.*
2. You are **ineligible** for an order of nondisclosure under Section 411.073 if your community supervision was revoked.
3. You are **ineligible** for an order of nondisclosure under Section 411.073 if you did not successfully complete your period of community supervision, including any term of confinement and payment of all fines, costs, and restitution imposed.
4. You are **ineligible** for an order of nondisclosure under Section 411.073 if you were convicted of or placed on deferred adjudication for another offense, other than a traffic offense punishable by fine only, during the period after the court placed you on community supervision for the offense for which the order of nondisclosure is requested and the expiration of any applicable waiting period following completion of your community supervision (described in No. 5 below).
5. Waiting Period. You are eligible to file a petition for nondisclosure under Section 411.073 either:

- a) Immediately after you complete community supervision, if your offense is not one of the offenses listed below in paragraph b); or
- b) Two years after you complete community supervision, if your offense is a misdemeanor under Chapter 20 (kidnapping, unlawful restraint, or smuggling of persons), 21 (sexual offenses), 22 (assaultive offenses), 25 (offenses against the family), 42 (disorderly conduct and related offenses), 43 (public indecency offenses), or 46 (weapons offenses) of the Penal Code.

To obtain an order of nondisclosure under Section 411.073, you must file a petition in the court that placed you on community supervision (*probation only*). The form and instructions for obtaining an order under Section 411.073 are available at this [link](#). The court must find that you are entitled to file the petition and issuance of the order is in the best interest of justice before the court can grant the order.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0731 - Procedure for Community Supervision Following Conviction; Certain Driving While Intoxicated Convictions

1. You are **ineligible** for an order of nondisclosure under Section 411.0731 if your conviction for driving while intoxicated is a Class A misdemeanor or higher degree of offense, or if your alcohol concentration level was 0.15 or more. Your offense must have been punishable as a Class B misdemeanor.
2. You are **ineligible** for an order of nondisclosure under Section 411.0731 if you were not placed on community supervision following your conviction. [*NOTE: You are **ineligible** if you were placed on deferred adjudication community supervision.*]
3. You are **ineligible** for an order of nondisclosure under Section 411.0731 if your community supervision was revoked, or if you did not complete community supervision, including any confinement imposed and payment of all fines, costs, and restitution imposed. [*NOTE: You are still eligible if the court waived all or part of the fine and costs.*]
4. You are **ineligible** for an order of nondisclosure under Section 411.0731 if you have been previously convicted of or placed on deferred adjudication for

another offense, except for a traffic offense punishable by fine only. In other words, you must be a first-time offender, but fine only traffic tickets do not count against you.

5. You are **ineligible** for an order of nondisclosure under Section 411.0731 if your commission of the offense resulted in a motor vehicle accident involving another person, including any passenger in your vehicle, even if that person did not suffer death or bodily injury.
6. Waiting Period. You are eligible to file a petition for an order of nondisclosure under Section 411.0731 either:
 - a) Two years after completing community supervision, if you successfully complied with a condition of community supervision that required the use of an ignition interlock device for 6 months or longer; or
 - b) Five years after completing community supervision, if the court did not require the use of an ignition interlock device or required use of the device for a period of less than 6 months.

To obtain an order of nondisclosure under Section 411.0731, you must file a petition. The form and instructions for obtaining an order under Section 411.0731 are available at this [link](#).

You must file the petition with the court that placed you on community supervision.

The court must find that you are entitled to file the petition and issuance of the order is in the best interest of justice before the court can grant the order. Also, if the prosecuting attorney presents evidence that shows your offense resulted in a motor vehicle accident involving another person, including a passenger in your vehicle, the court cannot grant the order.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0735 – Procedure for Conviction for Certain Misdemeanors

1. You are **ineligible** for an order of nondisclosure under Section 411.0735 if the offense for which you are requesting an order is a felony.
2. You are **ineligible** for an order of nondisclosure under Section 411.0735 if

your offense is a misdemeanor under Alcoholic Beverage Code Section 106.041, Penal Code Chapter 71, or Penal Code Section 49.04, 49.05, 49.06, or 49.065.

3. You are **ineligible** for an order of nondisclosure under Section 411.0735 if you were placed on community supervision, including deferred adjudication community supervision, for the offense for which you are requesting an order.
4. You are **ineligible** for an order of nondisclosure under Section 411.0735 if you **QUALIFY** for an order of nondisclosure under Section 411.073. You must be sure that you do not qualify for an order under Section 411.073 before proceeding under Section 411.0735.
5. You are **ineligible** for an order of nondisclosure under Section 411.0735 if you have not completed your sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed.
6. You are **ineligible** for an order of nondisclosure under Section 411.0735 if the court determines that the offense for which you are requesting an order of nondisclosure was violent or sexual in nature. However, if you were convicted of an assault under Section 22.01, Penal Code, you may still be eligible for an order of nondisclosure under 411.0735.
7. Excluding the offense for which the order of nondisclosure is requested, you are **ineligible** for an order of nondisclosure if you have ever been previously convicted of or placed on deferred adjudication for any other offense other than a traffic offense punishable by fine only. **You must be a first-time offender, excluding traffic offenses punishable by fine only.**
8. Waiting Period. If you were convicted of a misdemeanor punishable by fine only, you are eligible to petition the court for an order of nondisclosure under Section 411.0735 on or after the date that you completed your sentence. Otherwise, you must wait two years after you complete your sentence before filing a petition for an order of nondisclosure under 411.0735.

To obtain an order of nondisclosure under Section 411.0735, you must file a petition. **You must file your petition with the court that imposed your sentence.**

The form and instructions for obtaining an order under Section 411.0735 are available at this [link](#).

The court must determine that you are entitled to file the petition and that issuance of the order is in the best interest of justice before the court can grant your request.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

SECTION 411.0736 - Procedure for Conviction; Certain Driving While Intoxicated Convictions

1. You are **ineligible** for an order of nondisclosure under 411.0736 if you were not convicted of an offense under Penal Code Section 49.04 for driving while intoxicated (DWI).
2. You are **ineligible** for an order of nondisclosure under Section 411.0736 if your DWI was a Class A misdemeanor or higher degree of offense, or if your alcohol concentration level was 0.15 or more. **Your DWI must be punishable as a Class B misdemeanor.**
3. You are **ineligible** for an order of nondisclosure under 411.0736 if you QUALIFY for an order of nondisclosure under Section 411.0731. You must be sure that you do not qualify under Section 411.0731 before proceeding under Section 411.0736. *[NOTE: If your community supervision was revoked, or if you were not placed on community supervision following your conviction for DWI, you do not qualify under 411.0731.]*
4. You are **ineligible** for an order of nondisclosure under Section 411.0736 if you did not complete your sentence, including serving any term of confinement imposed and paying all fines, costs, and restitution imposed. You may still be eligible if the court waived all or part of the fine and costs imposed.
5. You are **ineligible** for an order of nondisclosure under Section 411.0736 if you have been previously convicted of or placed on deferred adjudication community supervision for another offense, except for a traffic offense punishable by fine only. In other words, you must be a first-time offender, but fine only traffic tickets do not count against you.
6. You are **ineligible** for an order of nondisclosure if your commission of the DWI resulted in a motor vehicle accident involving another person, including any passenger in your motor vehicle, regardless of whether the person was injured

or died.

7. Waiting Period. You are eligible to file a petition for an order of nondisclosure under Section 411.0736 either:

- a) Three years after you complete your sentence, if you successfully complied with a condition of the sentence that required the use of an ignition interlock device for 6 months or longer; or
- b) Five years after you complete your sentence, if the court did not require the use of an ignition interlock device or required use of the device for a period of less than 6 months.

Page | 23

To obtain an order of nondisclosure under Section 411.0736, if you are eligible, you must file a petition. The form and instructions for obtaining an order of nondisclosure under Section 411.0736 are available at this [link](#).

You must file the petition with the court that sentenced you, and your petition must include evidence that shows you are entitled to file the petition.

The court must find that you are entitled to file the petition and issuance of the order is in the best interest of justice before the court can grant the order. Also, if the prosecuting attorney presents evidence that your offense resulted in a motor vehicle accident involving another person, including a passenger in your vehicle, the court cannot grant the order.

You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in [Rule 145](#) of the Texas Rules of Civil Procedure.

Procedure after Order of Nondisclosure Issues

If the court grants the order of nondisclosure, the clerk will send a copy of the order to DPS no later than 15 business days after the order issues. After receiving the order, DPS has 10 business days to seal, not delete, the criminal history record information that is subject to the order and to forward a copy of the order to the state and federal agencies listed in [Government Code Section 411.075\(b\)](#). It is important for you to know that some agencies, including law enforcement agencies, will still have access to the information, although the information is sealed. You will find a list of such agencies at [Government Code Section 411.0765](#).