

Cause No. _____
(1)

In the Matter of § In the
§ _____

(3) § _____ County, Texas
(4)

Petition for Order of Nondisclosure **Under Section 411.0728**

_____ (5) ("Petitioner") respectfully petitions this court for an order of nondisclosure under Section 411.0728, Government Code, for the offense detailed below.

1. The Underlying Order

Petitioner was convicted of the offense indicated below (6) and placed on community supervision (hereinafter "probation") under Chapter 42A (formerly Article 42.12), Code of Criminal Procedure, following that conviction in Criminal Cause No. _____ (7) by this court on _____, _____. (8)

- Prostitution** (felony or misdemeanor)
- Promotion of Prostitution** (Class A misdemeanor only)
- Delivery or Possession of Marihuana** (Class B misdemeanor only)
- Theft** (Class C and B misdemeanors only)

A copy of the order or document showing that Petitioner was placed on probation **is / is not** (9) attached to this petition.

Petitioner's conviction was subsequently set aside by the court under Article 42A.701 (formerly Article 42.12, §20(a)), Code of Criminal Procedure. A copy of the order setting aside the conviction **is / is not** (10) attached to this petition.

2. Petitioner Satisfies the Requirements of Sec. 411.0728, Government Code

Petitioner satisfies the requirements of Section 411.0728 of the Government Code in that:

- Petitioner was placed on probation after conviction for an offense under:⁽¹¹⁾
 - ___ Section 481.120 (Delivery of Marihuana), Health and Safety Code, that was punishable under subsection (b)(1) of that section as a Class B misdemeanor;
 - ___ Section 481.121 (Possession of Marihuana), Health and Safety Code, that was punishable under subsection (b)(1) of that section as a Class B misdemeanor;
 - ___ Section 31.03 (Theft), Penal Code, that was punishable under subsection (e) (1) or (2) of the section as a Class C or B misdemeanor;
 - ___ Section 43.02 (Prostitution), Penal Code; or
 - ___ Section 43.03(a)(2) (Promotion of Prostitution), Penal Code, that was punishable as a Class A misdemeanor;
- Petitioner committed the above-mentioned offense solely as a victim of trafficking of persons;
- Petitioner’s conviction was set aside **on or after September 1, 2017**, but if Petitioner’s conviction was for the offense of prostitution, Petitioner’s conviction was set aside **on or after September 1, 2015**;
- Petitioner has not previously received an order of nondisclosure under Section 411.0728; and
- Petitioner satisfies the requirements of Section 411.074, Government Code.

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

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

- During the period after the court placed Petitioner on probation and until the date that Petitioner’s conviction was set aside, Petitioner was not convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only;
- Petitioner was not and has not ever been previously convicted of or placed on deferred adjudication for any of the following offenses:
 - (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);
 - 42.072 (Stalking); and
- (D) any other offense involving family violence, as defined by Section 71.004, Family Code; and
- The court has not made an affirmative finding that Petitioner's offense involved family violence, as defined by Section 71.004, Family Code.

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

Petitioner is entitled to file this petition because Petitioner has satisfied the requirements to do so. A person is entitled to file a petition for an order of nondisclosure under Section 411.0728, Government Code, if:

- the person seeks an order of nondisclosure for an offense listed under Section 411.0728(a), Government Code;
- the person was placed on probation after conviction for that offense;
- the person's conviction was set aside on or after September 1, 2015 (for prostitution offenses), or on or after September 1, 2017 (for all other offenses);
- the person committed the offense solely as a victim of trafficking of persons;
- the person has not previously received an order of nondisclosure under Section 411.0728, Government Code, and the person asserts this as a fact in his or her petition; and
- the person satisfies the requirements of Section 411.074, Government Code, including: during the period after the person was placed on probation and until the date that the person's conviction was set aside, not having been convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only; not having received an affirmative finding by the court that the person's offense involved family violence, as defined by Section 71.004, Family Code; and never having been

convicted of or placed on deferred adjudication for an offense listed in Section 411.074(b), Government Code.

5. Issuance of an Order of Nondisclosure is in the Best Interest of Justice

The issuance of an order of nondisclosure is in the best 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 ⁽¹²⁾

_____ 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 411.0728, Government Code.

Respectfully submitted,

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