

Cause No. _____
(1)

In the Matter of

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In the

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(2)

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_____ County, Texas

(3)

(4)

Petition for Order of Nondisclosure **Under Section 411.0725**

_____ (5) (hereinafter "Petitioner") respectfully petitions this court for an order of nondisclosure under § 411.0725, Gov't Code, for the offense detailed in the following paragraph.

1. The Underlying Order and Order of Discharge and Dismissal

Petitioner plead guilty or nolo contendere to the offense of _____ (6), a misdemeanor /felony (7) in Criminal Cause No. _____ (8) in this court.

Petitioner was placed on deferred adjudication community supervision (hereinafter "deferred adjudication") under Article 42A.101, Code Crim. Proc. (formerly, Section 5, Article 42.12). The term of Petitioner's deferred adjudication began on _____ (9) and ended on _____ (10). A copy of the judgment or order placing Petitioner on deferred adjudication **is / is not** (11) attached to this petition.

The court did not proceed to an adjudication of guilt. Instead, the court subsequently dismissed the proceedings and discharged the defendant. A copy of the dismissal and discharge **is / is not** ⁽¹²⁾ attached to this petition. The dismissal and discharge occurred on _____ ⁽¹³⁾.

2. Petitioner Satisfies the Requirements of Section 411.0725, Gov't Code

Petitioner satisfies the requirements of § 411.0725, Gov't Code, in that Petitioner is **ineligible** for an order of nondisclosure under § 411.072, Gov't Code, because (check all that apply): ⁽¹⁴⁾

____ A. The misdemeanor offense for which the order of nondisclosure is requested falls under one of the following chapters of the Penal Code:

- 20 (kidnapping, unlawful restraint, 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).

____ B. The court found that it is not in the best interest of justice that Petitioner receive an automatic order of nondisclosure under Section 411.072 and filed a statement of that finding with the papers of Petitioner's case.

____ C. The offense for which the order of nondisclosure is requested is a felony.

____ D. Petitioner has been previously convicted of or placed on deferred adjudication for an offense other than a traffic offense punishable by fine only. (A list of offenses and dates of Petitioner's previous convictions and deferred adjudications **is/ is not** ⁽¹⁵⁾ attached to the petition.)

____ E. Petitioner received a discharge and dismissal prior to September 1, 2017.

Petitioner also satisfies the requirements of § 411.0725 in that: (1) Petitioner has received a dismissal and discharge for the offense for which the order of nondisclosure is requested; and (2) the offense for which the order of nondisclosure is requested is not the offense of driving or boating while intoxicated under § 49.04 or 49.06, Penal Code, respectively.

Finally, Petitioner satisfies the requirements of § 411.0725 in that Petitioner waited the requisite time, as indicated below, before filing this petition.⁽¹⁶⁾

_____ On or after the fifth anniversary of the dismissal and discharge if the offense for which the order of nondisclosure is requested is a felony.

_____ On or after the second anniversary of the dismissal and discharge if the offense for which the order of nondisclosure is requested is a misdemeanor offense under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code.

_____ On or after the dismissal and discharge if the offense for which the order of nondisclosure is requested is a misdemeanor offense but not a misdemeanor offense under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code.

3. Petitioner Satisfies the Requirements of Section 411.074, Gov't Code

Petitioner satisfies the requirements of § 411.074, Gov't Code, in that:

- During the period after the court placed Petitioner on deferred adjudication, and during any applicable waiting period following the dismissal and discharge (see Section 2 above), 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 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 Crim. Proc.;

(B) an offense under § 20.04, Penal Code (aggravated kidnapping);

(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, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);
- 25.072 (repeated violations of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case); or
- 42.072 (stalking); or

(D) any other offense involving family violence, as defined by § 71.004, Family Code; and

- The court has not made an affirmative finding that the offense for which the order of nondisclosure is requested involved family violence, as defined by § 71.004, Family Code.

4. Petitioner is Entitled to File a Petition for an Order of Nondisclosure Under Section 411.0725, Gov't Code

A person is entitled to file a petition for an order of nondisclosure under § 411.0725, Gov't Code, if:

- the person is ineligible to receive an order of nondisclosure under § 411.072, Gov't Code;
- the person was placed on deferred adjudication for a qualifying misdemeanor or felony offense;
- the offense for which the order of nondisclosure is requested is not the offense of driving or boating while intoxicated under § 49.04 or § 49.06, Penal Code, respectively;
- the person has received a dismissal and discharge from the court;
- the person has waited the requisite time before filing a petition for an order of nondisclosure; and
- the person has met the requirements of § 411.074, Gov't 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 the filing fee. Petitioner has included ⁽¹⁷⁾

_____ the required filing fee.

_____ a *Statement of Inability to Afford Payment of Court Costs* in lieu of the required filing fee.

7. Prayer for Relief

Petitioner respectfully prays that the court grant Petitioner's request for an order of nondisclosure prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense specified in this petition.

Respectfully submitted,

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