



## Office of Court Administration

### Instructions and Letter Requesting Court to Issue an Order of Nondisclosure Under Section 411.072

THE FOLLOWING INSTRUCTIONS AND LETTER ARE ONLY FOR PERSONS REQUESTING AN ORDER OF NONDISCLOSURE UNDER [SECTION 411.072](#), GOV'T CODE. DO NOT ATTEMPT TO USE THE LETTER BELOW WITHOUT FIRST REVIEWING THE NONDISCLOSURE OVERVIEW TO DETERMINE IF YOU ARE ELIGIBLE FOR AN ORDER OF NONDISCLOSURE, AND IF SO, TO IDENTIFY THE CORRECT FORM TO USE. THE NONDISCLOSURE OVERVIEW IS AVAILABLE ON THE OFFICE OF COURT ADMINISTRATION'S WEBSITE AT THIS [LINK](#).

**NOTE:** You are ineligible for an order of nondisclosure under Section 411.072 if your discharge and dismissal occurred prior to September 1, 2017. If your discharge and dismissal occurred prior to September 1, 2017, you cannot use this letter.

TO BE ELIGIBLE TO USE THIS LETTER **EACH** OF THE FOLLOWING STATEMENTS MUST BE **TRUE**.

1. You were placed on deferred adjudication for a qualifying misdemeanor.
2. The court did not enter an affirmative finding that it is not in the best interest of justice for you to receive an automatic order of nondisclosure.
3. You received a discharge and dismissal on or after September 1, 2017.
4. You have been or were on deferred adjudication for a minimum of 180 days.
5. You are a first-time offender, excluding fine only traffic offenses.

### Order of Nondisclosure under Section 411.072

If you are eligible for an order of nondisclosure under Section 411.072, you do not have to file a petition or pay filing fees when you submit the enclosed letter to the court. **The letter is not a petition.** (NOTE: Some courts may set your case on the docket on the date that your period of deferred adjudication expires to determine your eligibility for an order of nondisclosure under Section 411.072.)

The statute requires the court to determine whether you qualify for an order under Section 411.072 at the time the court discharges and dismisses the proceedings against you under Article 42A.111, Code of Criminal Procedure. However, you must present evidence necessary to establish that you are eligible to receive the order and pay a \$28 fee (**this is not a filing fee**) or submit a *Statement of Inability to Afford Payment of Court Costs* to the court before the court issues the order.

*As a general rule, you must pay a \$28 fee before the court issues the order. However, you may be eligible to file a [Statement of Inability to Afford Payment of Court Costs](#) in lieu of paying the fee. The statement is described in Rule 145 of the [Texas Rules of Civil Procedure](#). The form for the Statement of Inability to Afford Payment of Court Costs is available on the Office of Court Administration's website at this [link](#).*

You may present evidence that you are eligible to receive an order of nondisclosure under Section 411.072 by completing and submitting the letter provided below. **You must complete the letter before submitting it to the court.** The court will use the letter to determine your eligibility for the order.

A **proposed order** for the order of nondisclosure is provided in these materials as well. You should submit the proposed order with the letter. The court will complete the proposed order if the court determines that an order should issue.

### **Required Waiting Period**

If the court finds that you satisfy the requirements for an order under Section 411.072, the court cannot issue the order of nondisclosure until you have been on deferred adjudication for at least 180 days. Basically, the court is required to issue the order of nondisclosure as follows:

- If the court discharges and dismisses the proceedings against you **on or after** the 180<sup>th</sup> day that you have been on deferred adjudication, the court must issue the order of nondisclosure at the same time the court discharges and dismisses the proceedings against you; or
- If the court discharges and dismisses the proceedings **prior** to the 180<sup>th</sup> day that you have been on deferred adjudication, the court must wait until you

have been on deferred adjudication for 180 days before issuing the order of nondisclosure. On or after the 180<sup>th</sup> day, the court must issue the order **as soon as practicable**.

### **Summary of Procedure**

If you are eligible for an order under Section 411.072, Gov't Code, you should take the following steps:

1. Complete the letter below, and if 180 days have passed since you have been on deferred adjudication, submit the letter and proposed order (*Order of Nondisclosure under Section 411.072*) to the clerk of the court (hereinafter "clerk"); and
2. Pay \$28 or submit a *Statement of Inability to Afford Payment of Court Costs*. Ask the clerk about their procedures for paying the fee or submitting the statement.

If the court has not already issued an order of nondisclosure, the court will review your letter and determine if you qualify for the order. If the court determines that you qualify for the order, the court will issue the order if you have paid the fee or submitted a statement of inability to pay.

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](#).

**LETTER REQUESTING AN ORDER OF NONDISCLOSURE UNDER SECTION 411.072,  
GOVERNMENT CODE**

\_\_\_\_\_ (1)

The Honorable \_\_\_\_\_ (2)

\_\_\_\_\_ (3)

c/o Court Clerk

\_\_\_\_\_ (4)

\_\_\_\_\_ (5)

Re: Criminal Cause No. \_\_\_\_\_ (6)

\_\_\_\_\_ (7)

To the Honorable Court,

I, \_\_\_\_\_ (8), respectfully request the court to issue an order of nondisclosure under Government Code Section 411.072 in the above-referenced case.

I entered a plea of \_\_\_\_\_ (9) to the offense of \_\_\_\_\_, (10) and the court placed me on deferred adjudication. My period of deferred adjudication began on \_\_\_\_\_ (11) and ended on \_\_\_\_\_ (12). I \_\_\_\_\_ (13) attached a copy of the Order of Deferred Adjudication. On \_\_\_\_\_, (14) I received a discharge and dismissal from the court. I \_\_\_\_\_ (15) attached a copy of the discharge and dismissal.

I believe that I am entitled to an order of nondisclosure under Section 411.072 for the following reasons: (16)

1. I was placed on deferred adjudication for a misdemeanor other than a misdemeanor under Penal Code Section 49.04 (Driving While Intoxicated) or 49.06 (Boating While Intoxicated) or 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);
2. Aside from the offense reflected above, I have not been previously convicted of or placed on deferred adjudication for any offense, excluding traffic offenses punishable by fine only;
  3. The court did not enter an affirmative finding that it is not in the best interest of justice for me to receive an automatic order of nondisclosure under Section 411.072;
  4. I received a dismissal and discharge under Article 42A.111, Code Crim. Proc. (formerly, § 5(c), Article 42.12, Code Crim. Proc.) on or after September 1, 2017; and
  5. I satisfy the requirements of Government Code Section 411.074 because:
    - a. Including the offense for which the order of nondisclosure is requested, I have never been convicted of or placed on deferred adjudication for any of the following offenses:
      - (i) an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62;
      - (ii) an offense under Penal Code Section 20.04 (Aggravated Kidnapping);
      - (iii) an offense under any of the following sections of the Penal Code:
        - Section 19.02 (Murder);
        - Section 19.03 (Capital Murder);
        - Section 20A.02 (Trafficking of Persons);
        - Section 20A.03 (Continuous Trafficking of Persons);
        - Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
        - Section 22.041 (Abandoning or Endangering a Child);
        - Section 25.07 (Violation of Court Orders or Conditions of Bond in a family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case);
        - Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case); or
        - Section 42.072 (Stalking); or
      - (iv) any offense involving family violence, as defined by Family Code Section 71.004;
    - b. This court did not make an affirmative finding that the offense for which I am requesting an order of nondisclosure involved family violence; and

- c. I was not convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only during the 180 days following my placement on deferred adjudication.

Based on the above information, I respectfully request the court to issue an order of nondisclosure for the criminal offense(s) referenced above.

Sincerely,

\_\_\_\_\_  
Signature (17)

\_\_\_\_\_  
Printed Name (18)

\_\_\_\_\_  
Address (19)

\_\_\_\_\_  
City, State, Zip (20)

\_\_\_\_\_  
Telephone Number (21)

## Instructions for Completing Letter

- (1) Please enter the current date.
- (2) Please enter the name of the judge that placed you on deferred adjudication.
- (3) Please enter the name of the court that placed you on deferred adjudication. Only the court that placed you on deferred adjudication can issue an order of nondisclosure in your case.
- (4) Please enter the address of the court that placed you on deferred adjudication.
- (5) Please enter the city, state, and zip code of the court that placed you on deferred adjudication.
- (6) Please enter the Criminal Cause Number of your case. This should be on the order that placed you on deferred adjudication.
- (7) Please enter your name as shown on the order of deferred adjudication.
- (8) Please enter your current legal name. This name may differ if your name has changed.
- (9) Please select either “guilty” or “nolo contendere” as shown on the order that placed you on deferred adjudication under Plea to Offense.
- (10) Please enter the offense shown on the order that placed you on deferred adjudication under Offense.
- (11) Please enter the date your deferred adjudication began as shown on the order.
- (12) Please enter the date your deferred adjudication ended as shown on the order.
- (13) Please select “have” if you will be attaching a copy of the order that placed you on deferred adjudication or “have not” if you are not attaching a copy of the order.
- (14) Please enter the date that you received a discharge and dismissal from the court.
- (15) Please select “have” if you will be attaching a copy of the discharge and dismissal or “have not” if you are not attaching a copy of the discharge and dismissal.
- (16) Please review the five statements numbered 1 through 5 and place a check mark or an “x” on the line before each statement that is true in your case. If you are unable to check or mark each box, you are ineligible for an order under Section 411.072.
- (17) Please sign above the line.
- (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.