



Office of Court Administration

**Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.0727**

BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT PETITION. THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS REQUESTING AN ORDER OF NONDISCLOSURE UNDER SECTION 411.0727, GOVERNMENT CODE. DO NOT ATTEMPT TO COMPLETE A PETITION FOR AN ORDER OF NONDISCLOSURE WITHOUT FIRST 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 AT THIS LINK: <http://www.txcourts.gov/rules-forms/orders-of-nondisclosure>.

TO BE ELIGIBLE TO USE THIS FORM EACH OF THE FOLLOWING STATEMENTS MUST BE TRUE:

1. YOU SUCCESSFULLY COMPLETED A VETERANS TREATMENT COURT PROGRAM FOR THE OFFENSE FOR WHICH THE ORDER OF NONDISCLOSURE IS REQUESTED.
2. YOU DID NOT ENTER THE VETERANS TREATMENT COURT PROGRAM AS THE RESULT OF BEING CONVICTED OF AN OFFENSE INVOLVING THE OPERATION OF A MOTOR VEHICLE WHILE INTOXICATED.
3. YOU HAVE NOT BEEN PREVIOUSLY CONVICTED OF AN OFFENSE LISTED IN ARTICLE 42A.054 (a), CODE OF CRIMINAL PROCEDURE, OR OF A SEXUALLY VIOLENT OFFENSE, AS DEFINED BY ARTICLE 62.001, CODE OF CRIMINAL PROCEDURE.
4. YOU WERE NOT CONVICTED OF A FELONY OFFENSE DURING THE TWO-YEAR PERIOD FOLLOWING YOUR SUCCESSFUL COMPLETION OF THE VETERANS TREATMENT COURT PROGRAM.
5. A MINIMUM OF TWO YEARS HAS PASSED SINCE YOUR SUCCESSFUL COMPLETION OF THE VETERANS TREATMENT COURT PROGRAM.

IF THE FIVE STATEMENTS ABOVE ARE NOT TRUE, THIS IS NOT THE CORRECT PETITION AND INSTRUCTIONS FOR YOU. YOU MAY BE ELIGIBLE FOR AN ORDER OF NONDISCLOSURE UNDER ANOTHER SECTION OF THE GOVERNMENT CODE. YOU SHOULD RETURN TO THE NONDISCLOSURE OVERVIEW TO DETERMINE IF

YOU ARE ELIGIBLE FOR AN ORDER OF NONDISCLOSURE UNDER ANOTHER SECTION.

Additional Requirements

You are **not eligible** for an order of nondisclosure under Section 411.0727, or any other section, if:

- you were or have ever been convicted of or placed on deferred adjudication community supervision (hereinafter “deferred adjudication”) for any of the offenses listed below:
 - (i) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
 - (ii) an offense under Texas Penal Code Section 20.04 (aggravated kidnapping);
 - (iii) 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); or
 - 42.072 (stalking); or
 - (iv) any other offense involving family violence, as defined by Section 71.004, Family Code;
- the court made an affirmative finding that your offense, the one for which you are requesting an order of nondisclosure, involved family violence, as defined by Section 71.004, Family Code; or
- if, during the period after the court pronounced the sentence, or placed you on deferred adjudication for the offense for which the order of nondisclosure is requested, and during the two-year

waiting period following your successful completion of the veterans treatment court program, you were convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only.

Instructions for Completing Petition

- (1) Please leave this line blank. This is not the number of your criminal case. A civil case will be created when you file the petition. The clerk of the court (hereinafter “clerk”) will enter a 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 dismissed your case or placed you on probation or deferred adjudication. The name of the court is shown on the top of the order that dismissed your case or placed you on probation or deferred adjudication.
- (3) Please enter your name as it appears in the order that dismissed your case or placed you on probation or deferred adjudication.
- (4) Please enter the name of the county in which the court that dismissed your case or placed you on probation or deferred adjudication is located.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the name of the offense for which the order of nondisclosure is requested. This is the same offense shown on the dismissal, order placing you on probation or deferred adjudication, or judgment in the case for which the order of nondisclosure is requested.
- (7) Please enter the criminal cause number shown on the order that dismissed your case or placed you on probation or deferred adjudication. Look for *Case No.* on that order.
- (8) Please enter the date on which you successfully completed the veterans treatment court program.
- (9) Please circle “is” if you are attaching proof of your successful completion of the veterans treatment court program. Although attaching proof of

successful completion of the veterans treatment court program may expedite the process for obtaining an order of nondisclosure, it is not required. Please circle “is not” if you are not attaching proof.

- (10) Please enter the date that the veterans treatment court determined that a dismissal of your case is in the best interest of justice. [Note: In some counties, the district or county court may also serve as the veterans treatment court.]
- (11) Please circle “is” if you are attaching a copy of the veterans treatment court’s order determining that a dismissal is in the best interest of justice. Please circle “is not” if you are not attaching a copy of the order. Attaching a copy of the order may expedite the process, but it is not required.
- (12) There is a filing fee associated with the filing of a petition for an order of nondisclosure under Section 411.0727. The filing fee is the amount of the court’s regular civil filing fee plus an additional \$28.00. Typically, the total filing fee is about \$280.00. However, the amount varies from county to county. Please contact the clerk for the court in which you are filing the petition to obtain the total amount of the fee required. **NOTE:** You should 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 read Rule 145 online at <http://www.txcourts.gov/media/1435952/trcp-all-updated-with-amendments-effective-912016.pdf>. You can click here for the **Statement of Inability to Afford Payment of Court Costs** form: <http://www.txcourts.gov/media/1435953/statement-final-version.pdf>.*

Please place a check mark or an “x” on 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, place a check mark or an “x” on the line in front of the second statement.

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

Process After You Complete the Petition

If you are eligible for an order of nondisclosure under Section 411.0727, the process for obtaining an order under this section is as follows:

First, check in advance with the clerk’s office to obtain the total amount of the fee (including the \$28 fee) to file a petition for an order of nondisclosure, unless you are submitting a ***Statement of Inability to Afford Payment of Court Costs*** in lieu of paying the fee. Next, be sure to complete the ***correct*** petition according to the instructions, and after you have done so, print both the petition and the ***Order of Nondisclosure under Section 411.0727***. In most courts, you will have to submit a proposed order with your petition. The judge will complete the order, if the judge grants your request.

You must file the petition in the court that placed you in the veterans treatment court program, not in the veterans treatment court, unless the court that placed you in the veterans treatment court program also serves as the veterans treatment court.

After you file the petition, the clerk will send it to the court and the court will notify the prosecutor. Again, you should 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.

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 411.0727. After the hearing, if the court determines that you are entitled to file the petition and issuance of the order of nondisclosure is in the best interest of justice, the court should 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. If the court determines that you are entitled to file the petition and issuance of the order is in the best interest of justice, the court should 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 entitled to file the petition.

If the court grants the order of nondisclosure, not later than 15 business days after the order issues, the clerk will send a copy of the order to DPS. Then, not later than 10 business days after DPS receives the order, DPS will seal the criminal history record information that is the subject of the order and forward the order to the state and federal agencies listed in Section 411.075(b), Government Code. See Section 411.075(b) for a complete list of agencies and entities that DPS must notify.

- Did not enter into the veterans treatment court program because of a conviction of an offense involving the operation of a motor vehicle while intoxicated;
- Has never been previously convicted of any of the offenses listed in Article 42A.054(a), Code of Criminal Procedure, which includes the following:
 - Section [15.03](#), Penal Code (Criminal Solicitation), if the offense is punishable as a first degree felony;
 - 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 first degree felony 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](#) (Continuous Sexual Abuse of Young Child or Children), [21.11](#) (Indecency With a Child), [22.011](#) (Sexual Assault), [22.021](#) (Aggravated Sexual Assault), or [25.02](#) (Prohibited Sexual Conduct) of the Penal Code;
 - Section [43.05](#), Penal Code (Compelling Prostitution);
 - Section [43.25](#), Penal Code (Sexual Performance by a Child); and
 - Chapter [481](#), Health and Safety Code (Texas Controlled Substances Act), for which punishment is increased under Section [481.140](#) of that Code (Use of Child in Commission of Offense) because of the use or attempted use of a child in the commission of the offense, or under Section 481.134(c), (d), (e), or (f) of that Code (Drug-free Zones) because of a previous conviction of an offense for which punishment was increased under any of those subsections;
- Has never been previously convicted of a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure;
- Was not convicted of a felony during the two years following Petitioner's successful completion of the veterans treatment court program; and
- Has waited a minimum of two years following Petitioner's successful completion of the veterans treatment court program before filing this petition.

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

Petitioner satisfies the requirements of Sec. 411.074 of the Government Code in that:

- During the period after the court pronounced the sentence or placed Petitioner on deferred adjudication for the offense for which the order of nondisclosure is requested, and during the two-year waiting period following Petitioner's successful completion of the veterans treatment court program, 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 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 the offense for which the order of nondisclosure is requested 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 under Section 411.0727, Government Code, if the person:

- Successfully completes a veterans treatment court program established under Chapter 124, Government Code, or former law, for the offense for which the order of nondisclosure is requested;
- Satisfies the requirements of Section 411.074, Government Code, including: not having been convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only during the period after the court pronounced the sentence or placed the person on probation or deferred adjudication, and during the two-year waiting period following the person's successful completion of the veterans treatment court program; not having received an affirmative finding by the court that the offense for which the order of nondisclosure is requested 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;
- Has never been previously convicted of an offense listed in Article 42A.054(a), Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure;
- Was not convicted of a felony offense during the two-year period following the person's successful completion of the veterans treatment court program; and
- Did not enter the veterans treatment court program as the result of a conviction of an offense involving the operation of a motor vehicle while intoxicated.

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 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 411.0727, Government Code.

Respectfully submitted,

(13)

(14)

(15)

(16)

(17)

Cause No. _____

In the Matter of

§

In the

§

§

_____ County, Texas

Order of Nondisclosure **Under Section 411.0727**

On this the _____, day of _____, 20____, the Court considered Petitioner’s Petition for an Order of Nondisclosure under Section 411.0727, Government Code.

The State was given notice of the petition and an opportunity to request a hearing.
The State

- requested a hearing.
- did not request a hearing.

The Court

- conducted a hearing on _____, ____.
- did not conduct a hearing.

After consideration and a hearing, if a hearing was held as indicated above, the Court **FINDS** that Petitioner entered the veterans treatment court program for the offense(s) of _____, as charged in Criminal Cause No. _____. The Court **FURTHER FINDS** that Petitioner’s entrance into the veterans treatment court program did not arise as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

The Court **FURTHER FINDS** that Petitioner is entitled to file the petition and that issuance of the order of nondisclosure is in the best interest of justice.

Accordingly, **IT IS HEREBY ORDERED** that criminal justice agencies are prohibited from disclosing to the public criminal history record information related to the offense for which Petitioner entered the veterans treatment court program.

IT IS FURTHER ORDERED that the criminal history record information pertaining to the arrest and prosecution of Petitioner for the above-referenced offense(s) shall be sealed and disclosed by the court only to individuals and agencies listed in Section 411.076(a), Government Code.

IT IS FURTHER ORDERED that no later than the 15th business day after the date that this order issues, the clerk of the court (hereinafter "clerk") shall send all relevant criminal history record information contained in this order or a copy of this order to the Crime Records Service of the Texas Department of Public Safety (hereinafter "DPS") by certified mail (return receipt requested) or secure electronic mail, electronic transmission, or facsimile transmission, in accordance with Section 411.075(a), Government Code.

IT IS FURTHER ORDERED that no later than 10 business days after receipt of the relevant criminal history record information contained in this order or a copy of this order from the clerk, DPS shall seal the criminal history record information that is the subject of this order and forward the information or copy of the order to all state and federal agencies listed in Section 411.075(b), Government Code, by certified mail (return receipt requested) or secure electronic mail, electronic transmission, or facsimile transmission, in accordance with Section 411.075(b), Government Code.

IT IS FURTHER ORDERED that an agency or entity shall seal any criminal history record information maintained by that agency or entity that is the subject of this order no later than 30 business days after the date the agency or entity receives the relevant criminal history record information contained in this order or a copy of this order from DPS or a clerk, in accordance with Section 411.075(d), Government Code.

IT IS FURTHER ORDERED that the clerk shall seal all court records containing information that is the subject of this order as soon as practicable after the date the clerk sends a copy of this order or all relevant criminal history record information contained in this order to DPS, in accordance with Section 411.076(b), Government Code.

Signed on _____.

Judge Presiding

Court/County