



Office of Court Administration

Instructions for Completing the Model **Petition for Order of Nondisclosure** **Under Section 411.0728**

THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS REQUESTING AN ORDER OF NONDISCLOSURE UNDER [TEXAS GOVERNMENT CODE SECTION 411.0728](#). BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT PETITION. 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 FORMS TO USE. THE NONDISCLOSURE OVERVIEW IS AVAILABLE ON THE OFFICE OF COURT ADMINISTRATION'S WEBSITE AT [TXCOURTS.GOV](#) UNDER THE RULES AND FORMS SECTION.

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

1. You are requesting an order of nondisclosure for one of the offenses listed under Texas Government Code Section 411.0728(a)(1), which includes:
 - **Prostitution** (Texas Penal Code Section 43.02);
 - **Theft** as a Class C or B misdemeanor (Texas Penal Code Section 31.03(e)(1) or 31.03(e)(2));
 - **Delivery of Marihuana** as a Class B misdemeanor (Texas Health & Safety Code Section 481.120(b)(1)); and
 - **Possession of Marihuana** as a Class B misdemeanor (Texas Health & Safety Code Section 481.121(b)(1)).
2. You committed the offense for which the order of nondisclosure is requested **solely** as a victim of an offense under Texas Penal Code Section 20A.02 (**Trafficking of Persons**), 20A.03 (**Continuous Trafficking of Persons**), or 43.05 (**Compelling Prostitution**).
3. You were convicted of or placed on deferred adjudication community supervision for the offense for which the order of nondisclosure is requested.
4. If law enforcement or the prosecuting attorney requested your assistance in investigating or prosecuting an offense involving human trafficking, compelling prostitution, or other similar federal offense, you provided assistance or were unable to do so because of 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. *(Note: If law enforcement or the prosecutor did not request your assistance, skip to the next question.)*
5. If this is your second or subsequent petition for an order under this section, you committed the offense for which this order of nondisclosure is requested **prior** to submitting your first petition under this section. *(Please note that if you committed one of the offenses described in No. 1 above **on or after** you submitted your first petition for an order of nondisclosure under Section 411.0728, you are **ineligible** for an order of nondisclosure under this section.)*
 6. A minimum of one year has passed since the completion of your sentence, or your discharge and dismissal from deferred adjudication.

IF ONE OF THE ABOVE STATEMENTS IS FALSE, THIS IS NOT THE CORRECT PETITION 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 under another section.

ADDITIONAL REQUIREMENTS

You are **ineligible** for an order of nondisclosure under Section 411.0728 if:

- you were or have ever been previously 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 Texas 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 Texas Penal Code:
 - (i) an offense requiring registration as a sex offender under Texas Code of Criminal Procedure Chapter 62;
 - (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:
 - 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 Texas Family Code Section 71.004; or
- the court made an affirmative finding that your offense involved family violence.

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 convicted you or placed you on deferred adjudication community supervision. The name of the court is on the top of the judgment or order that placed you on deferred adjudication.
- (3) Please enter your name as it appears on the judgment or order that placed you on deferred adjudication.
- (4) Please enter the name of the county in which the court that convicted you or placed you on deferred adjudication is situated. The name of the county is on the judgment or order that placed you on deferred adjudication.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the criminal cause number as it appears on the judgment or order that placed you on deferred adjudication. Look for the *Cause* or *Case No.* on that judgment or order.
- (7) Please enter the date that you were convicted or placed you on deferred adjudication.

- (8) Place an “X” next to the offense that you were convicted of or placed you on deferred adjudication for. The offense is reflected on the judgment or the order that placed you on deferred adjudication.
- (9) Please select “is” if you are attaching a copy of the judgment, order, or other document showing that you were convicted of or placed on deferred adjudication for the offense for which the order of nondisclosure is requested. Attaching a copy of the judgment, order, or other document may expedite the process, but it is not required. Please circle “is not” if you are not attaching anything.
- (10) Please place an “X” next to the offense(s) that apply to you.
- (11) 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. Please contact the court clerk for the court in which you are filing the petition to obtain the total amount due when you file the petition.

Please place 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 an “x” on the line in front of the second statement.

- (12) Please sign above the line.
- (13) Please PRINT your name.
- (14) Please enter your mailing address.
- (15) Please enter your city, state and zip code.
- (16) Please enter your telephone number.

THE PROCESS AFTER YOU COMPLETE THE PETITION

If you are eligible for an order of nondisclosure under Section 411.0728, the process for obtaining an order under the section is as follows:

First, be sure to wait the requisite time (*one year after completing your sentence or*

receiving a discharge and dismissal) before filing the petition and check with the court clerk to obtain the total amount due upon filing the petition, unless you are submitting a ***Statement of Inability to Afford Payment of Court Costs***. Next, be sure to complete the ***correct*** petition according to the instructions, and after you have done so, print both the petition and the proposed ***Order of Nondisclosure***. 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 convicted you or placed you on deferred adjudication, unless you are filing in a district court to consolidate multiple petitions.

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

A hearing is required if the prosecutor requests one.

If a hearing is scheduled, the court will notify you. If there is a hearing, the court may ask questions regarding your eligibility to receive the order. After the hearing, if the court finds that you have satisfied the requirements of the statutes (Texas Government Code Sections 411.0728 and 411.074(b)) and issuance of the order is in the best interest of justice, the court will grant your request for the order.

If the court does not hold a hearing, the court will review your petition to determine whether an order of nondisclosure shall issue. The court must find that you satisfy the requirements of Sections 411.0728 and 411.074(b), and that issuance of the order is in the best interest of justice before the court may grant your request.

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

If the court grants the order, the clerk will send a copy of the order to DPS no later than 15 business days after the order issues. Upon receiving the order, DPS will have 10 business days to seal, not delete, the criminal history record information that is subject to the order and forward a copy of the order to the state and federal agencies listed in Texas Government Code Section 411.075(b). It is important to note 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 Texas Government Code Section 411.0765.