

Cause No. _____
(1)

In the Matter of

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In the

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(2)

(3)

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_____ County, Texas
(4)

Petition for Order of Nondisclosure

Under Section 411.073

_____ (5) ("Petitioner") respectfully petitions this court for an Order of Nondisclosure regarding the offense detailed in the following paragraph. This petition is filed pursuant to Section 411.073, Government Code.

1. The Underlying Order and Completion of Community Supervision

Petitioner was convicted in this court of the misdemeanor offense of _____ (6) in Criminal Cause No. _____ (7).

Petitioner was placed on community supervision (hereinafter "probation"), and the term of Petitioner's probation began on (8) _____. Petitioner's probation was not revoked, and Petitioner completed the period of probation on (9) _____.

A copy of this court's order or judgment placing Petitioner on probation (10) **is / is not** attached to this petition. A copy of this court's order showing that Petitioner completed probation **is / is not** attached. (11)

2. Petitioner Satisfies the Requirements of Gov't Code Secs. 411.073 and 411.074

Petitioner meets the requirements of Sec. 411.073, Government Code, because:

- the offense for which Petitioner was convicted and is requesting an order of nondisclosure was NOT a misdemeanor under:
 - Sec. 106.041, Alcoholic Beverage Code (driving/operating watercraft under the influence of alcohol by minor),
 - Sec. 49.04, Penal Code (driving while intoxicated),
 - Sec. 49.05, Penal Code (flying while intoxicated),
 - Sec. 49.06, Penal Code (boating while intoxicated),
 - Sec. 49.065, Penal Code (assembling or operating an amusement ride while intoxicated), or
 - Chapter 71, Penal Code (organized crime offenses);
- this court placed Petitioner on probation under a provision of Article 42.12, Code of Criminal Procedure, other than Section 5 (effective January 1, 2017, under a provision of Chapter 42A, other than Art. 42A.101), that may have included confinement as a term of probation or that may have placed Petitioner on probation after Petitioner served part of a term of confinement;
- Petitioner has never been previously convicted of or placed on deferred adjudication community supervision (hereinafter "deferred adjudication") for another offense other than an offense under the Transportation Code punishable by fine only; and
- Petitioner has met the waiting period listed in the paragraph following this sentence.

Petitioner has met the waiting period required by Sec. 411.073(d) and indicated below (check one): **(12)**

on or after the second anniversary of the date of completion of the probation (Petitioner's offense was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code); or

on or after the date of completion of the probation (Petitioner's offense was **not** a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code).

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

Petitioner satisfies the requirements of Section 411.074, Government Code, in that during the period after the court pronounced the sentence for the offense for which Petitioner is requesting an order of nondisclosure, and during any applicable waiting period (described in Section 2 above) after completion of the probation, Petitioner was not convicted of or placed on deferred adjudication under Section 5, Article 42.12, Code of Criminal Procedure (effective January 1, 2017, Art. 42A.101), for any offense other than an offense under the Transportation Code punishable by fine only.

Further, Petitioner was not convicted of or placed on deferred adjudication for and has never been convicted of or placed on deferred adjudication for any of the following:

- (A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure; or
- (B) an offense under Texas Penal Code Section 20.04 (aggravated kidnapping); or
- (C) an offense under any of the following Texas Penal Code Sections:
 - 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
- (D) any other offense involving family violence, as defined by Section 71.004, Family Code.

Additionally, the court did not make an affirmative finding that the offense for which Petitioner is requesting an order of nondisclosure 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 each of the requirements necessary to be so entitled. A person is entitled to file a petition for an order of nondisclosure under Sec. 411.073, Government Code, if the person:

- was convicted of a misdemeanor but not one of the misdemeanors listed in Secs. 411.073(a) and 411.074(b), Government Code;
- was placed on probation and ordered to serve a period of confinement for that particular misdemeanor;
- completed probation without it being revoked;
- has never previously, during the period after the court pronounced the sentence, or during any applicable waiting period, been convicted of or placed on deferred adjudication for another offense other than an offense under the Transportation Code punishable by fine only ; and
- has met the requirements of Sections 411.073 and 411.074, Government Code, including: waiting the requisite amount of time to file a petition for

an order of nondisclosure; no affirmative finding by the court that the offense for which Petitioner is requesting an order of nondisclosure involved family violence as defined by Sec. 71.004, Family Code.

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

The issuance of an Order of Nondisclosure in this case 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: (13)

the required filing fee; or

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

7. Prayer for Relief

Petitioner prays that after notice to the state, an opportunity for a hearing, and a determination by the court that Petitioner is entitled to file this petition and issuance of the order of nondisclosure is in the best interest of justice, the court will grant Petitioner's request for an order 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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