

Cause No. _____
(1)

In the Matter of § In the
§
_____ § _____
(3) (4) County, Texas

Petition for Order of Nondisclosure **Under Section 411.0728**

_____ (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 411.0728, Government Code.

1. The Underlying Order

Petitioner was convicted in this court of an offense under Section 43.02, Texas Penal Code, and was placed on community supervision (hereinafter “probation”) under Section 5, Article 42.12, Code of Criminal Procedure (effective January 1, 2017, Art. 42A.101) in Criminal Cause No. _____ (6), and the conviction was subsequently set aside by the court under Section 20(a), Article 42.12, Code of Criminal Procedure (effective January 1, 2017, Art. 42A.101). A copy of the order or judgment placing Petitioner on probation **is / is not** (7) attached to this Petition. A copy of the order setting aside the conviction **is / is not** (8) attached to this Petition.

2. Petitioner Satisfies the Requirements of Sec. 411.0728, Government Code

Petitioner satisfies the requirements of Sec. 411.0728 of the Government Code because:

- Petitioner was convicted and placed on probation for an offense under Sec. 43.02 of the Penal Code;
- Petitioner committed the offense solely as a victim of trafficking of persons; and
- Petitioner's conviction was set aside **after** September 1, 2015.

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

Petitioner satisfies the requirements of Section 411.074, Government Code, in that during the period of probation for the offense for which the order of nondisclosure is requested, Petitioner was not convicted of or placed on deferred adjudication under Section 5, Article 42.12 (effective January 1, 2017, Art. 42A.101), Code of Criminal Procedure, 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 previously convicted of or placed on any other deferred adjudication for any of the following:

- (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 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 petitioner is entitled to file a petition for an order of nondisclosure under Sec. 411.0728, Government Code, if:

- the offense for which the petitioner is seeking an order of nondisclosure is an offense under Sec. 43.02 of the Penal Code;
- the petitioner was placed on probation for such offense;
- the petitioner's conviction was set aside after September 1, 2015;
- the petitioner committed the offense solely as a victim of trafficking of persons; and
- the petitioner has met the requirements of Sections 411.0728 and 411.074, Government Code, including: during the term of probation and during any

waiting period after completion of probation for the offense for which the petitioner is requesting an order of nondisclosure, not having been convicted of or placed on deferred adjudication for another offense other than an offense under the Transportation Code punishable by fine only; filing the petition after the petitioner's conviction was set aside; no affirmative finding by the court that the offense for which the petitioner is requesting an order of nondisclosure involved family violence as defined by Sec. 71.004, Family Code; and never having been convicted of or placed on deferred adjudication for an offense listed in Sec. 411.074(b), Government 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 would be in the best 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:

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 committed the offense solely as a victim of trafficking of persons and issuance of the order 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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