

Cause No. _____
(1)

In the Matter of _____ § _____ In the _____
_____ § _____
_____ § _____
(3) _____ (2) _____ County, Texas
(4)

Petition for Order of Nondisclosure **Under Section 411.0726**

_____ (5) ("Petitioner") respectfully petitions the court for an order of nondisclosure under § 411.0726, Gov't Code, for the offense detailed below.

1. The Underlying Order

Petitioner was placed on deferred adjudication community supervision for an offense under § 49.04 (Driving While Intoxicated) or § 49.06 (Boating While Intoxicated), Penal Code, in Criminal Cause No. _____ (6) in this court on _____, _____. (7) Evidence that Petitioner was placed on deferred adjudication **is** attached. (8)

Petitioner completed deferred adjudication, and the court entered a dismissal and discharge under Article 42A.111, Code Crim. Proc., or former law, on _____, _____. (9) Evidence that the court entered a dismissal and discharge is attached. (10)

2. Petitioner Satisfies the Requirements of Section 411.0726, Gov't Code

Petitioner satisfies the requirements of § 411.0726, Gov't Code, in that:

- Petitioner was placed on deferred adjudication for an offense under § 49.04 (Driving While Intoxicated) or § 49.06 (Boating While Intoxicated), Penal Code;
- At the time of the offense, Petitioner did not hold a commercial driver's license or commercial learner's permit and did not have an alcohol concentration of 0.15 or more;

- Petitioner completed the period of deferred adjudication, and the court ordered a dismissal and discharge under Article 42A.111, Code Crim. Proc., or former law;
- The court did not enter an affirmative finding that it is not in the best interest of justice that Petitioner receive an automatic order of nondisclosure under § 411.072, Gov't Code;
- Petitioner has never been previously convicted of or placed on deferred adjudication for another offense, other than a traffic offense punishable by fine only;
- Petitioner's commission of the offense for which the order of nondisclosure is requested did not result in a motor vehicle accident involving another person, including any passenger in Petitioner's vehicle;
- Petitioner satisfies the requirements of § 411.074, Gov't Code;
- Petitioner waited two years following his or her dismissal and discharge before filing this petition; and
- Petitioner's petition includes evidence that Petitioner is entitled to file this petition.

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

Petitioner satisfies the requirements of § 411.074, Gov't Code, in that:

- During the period after the court placed Petitioner on deferred adjudication, and during the applicable waiting period, as indicated above, 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:
 - (A) an offense requiring registration as a sex offender under Chapter 62, Code Crim. Proc.;
 - (B) an offense under § 20.04 (Aggravated Kidnapping) Penal Code;
 - (C) an offense under any of the following sections of the 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, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case);
 - § 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case); or
 - § 42.072 (Stalking); or
- (D) any other offense involving family violence, as defined by § 71.004, Family Code; and
- The court has not made an affirmative finding that Petitioner’s offense involved family violence, as defined by § 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 for an order of nondisclosure under § 411.0726, Gov’t Code, if:

- The person was placed on deferred adjudication for an offense under § 49.04 (Driving While Intoxicated) or § 49.06 (Boating While Intoxicated) Penal Code;
- At the time of the offense, the person does not hold a commercial driver’s license or commercial learner’s permit and does not have an alcohol concentration of 0.15 or more;

- The court did not enter an affirmative finding in the papers of the underlying case that it is not in the best interest of justice that the person receives an automatic order of nondisclosure under § 411.072, Gov't Code;
- The person was not adjudged guilty, and the court entered an order of dismissal and discharge in the underlying case under § 42A.111, Code Crim. Proc., of former law;
- The person has never been previously convicted of or placed on deferred adjudication for another offense other than a traffic offense punishable by fine only;
- **(For DWI offenses only)** The person's commission of the driving while intoxicated offense, if applicable, did not result in a motor vehicle accident involving another person, including any passenger in the person's vehicle;
- The person satisfies the requirements of § 411.074, Gov't 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 person was placed on deferred adjudication and during any applicable waiting period;
 - not having ever been convicted of or placed on deferred adjudication for any of the offenses listed below:
 - an offense requiring registration as a sex offender under Chapter 62, Code Crim. Proc.;
 - an offense under § 20.04 (Aggravated Kidnapping), Penal Code;
 - an offense under any of the following sections of the 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, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case);
- § 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case); or
- § 42.072 (Stalking); or
 - any other offense involving family violence, as defined by § 71.004, Family Code; and
 - not having received an affirmative finding by the court that the driving or boating while intoxicated offense involved family violence, as defined by § 71.004, Family Code;
- The person waited a minimum of two years following his or her dismissal and discharge before filing a petition for an order of nondisclosure under § 411.0726, Gov't Code; and
- The person included in his or her petition evidence that shows the person is entitled to file a petition for an order of nondisclosure under § 411.0726, Gov't Code.

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 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 fees. Petitioner has included ⁽¹¹⁾

_____ 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 requests the court to grant the order of nondisclosure requested herein.

Respectfully submitted,

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