

Cause No. _____
(1)

In the Matter of

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In the

§

_____ (2)

§

_____ County, Texas

(3)

(4)

Petition for Order of Nondisclosure **Under Section 411.0735**

_____ (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 411.0735, Government Code.

1. The Underlying Order and Completion of Period of Confinement

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

Petitioner was sentenced to a period of confinement that began on _____ (8). A copy of this court's order or judgment sentencing Petitioner to a period of confinement **is / is not** (9) attached to this Petition. Petitioner completed the term of confinement and was released on _____ (10). A copy of Petitioner's release paper **is / is not** (11) attached to this petition.

2. Petitioner Satisfies the Requirements of Secs. 411.0735, Government Code

Petitioner satisfies the requirement under Section 411.0735 that a petitioner not be eligible for an order of nondisclosure under Section 411.073, Government Code, because Petitioner was not placed on probation under Art. 42.12, Code of Criminal Procedure (effective January 1, 2017, Chapter 42A).

Additionally, Petitioner meets the other requirements of Section 411.0735 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);
- Petitioner was sentenced to and served a period of confinement for the offense for which Petitioner is requesting an order of nondisclosure;
- Petitioner has never been previously convicted of or placed on deferred adjudication for another offense other than an offense under the Transportation Code punishable by fine only; and
- two or more years have passed since Petitioner completed the period of confinement imposed by this court.

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 after the court pronounced the sentence for the offense for which the

order of nondisclosure is requested, and for the two years following Petitioner's completion of the sentence for that offense, 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 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;
- (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, this 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. 411.0735, Government Code, if the person:

- was convicted, sentenced to, served, and released from a period of confinement for a misdemeanor other than a misdemeanor listed under Secs. 411.0735(a) and 411.074(b), Government Code;
- 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 411.0735 and 411.074, Government Code, including: not being eligible for an order of nondisclosure under Sec. 411.073, Government Code; 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: (12)

the required filing fee; or

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

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 that 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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