



- Petitioner was convicted of an offense under Section 49.04 (Driving While Intoxicated), Penal Code, other than an offense punishable as a Class A misdemeanor under that section;
- Petitioner’s alcohol concentration level was less than 0.15 at the time an analysis of the petitioner’s blood, breath, or urine was performed;
- Petitioner was placed on probation following Petitioner’s conviction, including a probation that required Petitioner to serve a term of confinement as a condition of probation or before being placed on probation;
- Petitioner’s probation was not revoked;
- Petitioner completed Petitioner’s period of probation, including any term of confinement imposed and payment of all fines, costs, and restitution, if any;
- Petitioner satisfies the requirements of Section 411.074, Government Code;
- Petitioner has never been previously convicted of or placed on deferred adjudication community supervision (“deferred adjudication”) for another offense other than a traffic offense punishable by fine only;
- Petitioner waited the requisite time, as indicated below, before filing this petition. <sup>(12)</sup>

\_\_\_\_\_ Two years after completing probation (if Petitioner successfully complied with a condition of probation that, for a period of not less than six months, restricted Petitioner’s use of a motor vehicle to a motor vehicle equipped with an ignition interlock device, then must wait)

\_\_\_\_\_ Five years after completing probation (if the court that placed Petitioner on probation **did not** restrict Petitioner’s use of a motor vehicle to a motor vehicle equipped with an ignition interlock device, or restricted Petitioner’s use of a motor vehicle to a motor vehicle equipped with an ignition interlock device for a period of less than six months); and

- Petitioner’s petition includes evidence that Petitioner is entitled to file this petition.

### **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 placed Petitioner on probation, 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 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; and
- The court has not made an affirmative finding that Petitioner’s offense 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 the requirements to do so. A person is entitled to file a petition for an order of nondisclosure under Section 411.0731, Government Code, if the person:

- Was convicted of an offense under Section 49.04 (Driving While Intoxicated), Penal Code, other than an offense punishable as a Class A misdemeanor under that section;
- Had an alcohol concentration level that was less than 0.15 at the time an analysis of the person's blood, breath, or urine was performed;
- Was placed on probation under Chapter 42A, Code of Criminal Procedure (formerly, Article 42.12) following his or her conviction;
- Did not have his or her probation revoked;
- Completed the period of probation, including any term of confinement imposed and payment of all fines, costs, and restitution, if any;
- Has satisfied the requirements of Section 411.074, Government 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 probation 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 of Criminal Procedure;
    - an offense under Texas Penal Code Section 20.04 (Aggravated Kidnapping);
    - 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
  - any other offense involving family violence, as defined by Section 71.004, Family Code; and
    - not having received an affirmative finding by the court that the offense for which the order of nondisclosure is requested involved family violence, as defined by Section 71.004, Family Code;
- Has not been previously convicted of or placed on deferred adjudication for another offense other than a traffic offense punishable by fine only;
- Has waited the requisite time (see applicable waiting period indicated above) before filing a petition for an order of nondisclosure under Section 411.0731, Government Code; and
- Has included in his or her petition evidence that shows the person is entitled to file a petition for an order of nondisclosure under Section 411.0731, Government 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 <sup>(13)</sup>

\_\_\_\_\_ 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 prays that the court grant Petitioner’s request for an order of nondisclosure under Section 411.0731, Government Code.

Respectfully submitted,

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