



Office of Court Administration

Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.0726

THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS SEEKING AN ORDER OF NONDISCLOSURE UNDER [GOVERNMENT CODE SECTION 411.0726](#). BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT MODEL PETITION. DO NOT ATTEMPT TO COMPLETE A PETITION FOR AN ORDER OF NONDISCLOSURE WITHOUT FIRST REVIEWING THE NONDISCLOSURE OVERVIEW TO DETERMINE IF YOU ARE ELIGIBLE FOR AN ORDER OF NONDISCLOSURE AND TO IDENTIFY THE CORRECT FORMS TO USE. THE NONDISCLOSURE OVERVIEW IS AVAILABLE ON THE OFFICE OF COURT ADMINISTRATION'S WEBSITE AT THIS [LINK](#).

TO BE ELIGIBLE TO USE THIS FORM EACH OF THE FOLLOWING STATEMENTS MUST BE TRUE.

1. You are requesting an order of nondisclosure for the offense of driving or boating while intoxicated under Penal Code Section 49.04 or 49.06, respectively.
2. You received deferred adjudication community supervision ("deferred adjudication") following your plea to the offense.
3. The court entered a discharge and dismissal under Code of Criminal Procedure Article 42A.111 (or former law) in your case.
4. The court did not enter an affirmative finding that it is not in the best interest of justice for you to receive an automatic order of nondisclosure under Section 411.072, Gov't Code.
5. **(FOR DWI OFFENSES ONLY)** The offense did not result in an accident involving another person, including a passenger in your motor vehicle.
6. You are a first-time offender in that you have not been previously convicted of or placed on deferred adjudication for another offense, other than a traffic offense punishable by fine only.
7. At the time of the offense, you did not hold a commercial driver's license or permit.
8. At the time of the offense, your alcohol concentration was not 0.15 or more.
9. You will have waited two years following completion of deferred adjudication and discharge and dismissal before filing a petition for an order of nondisclosure under Section 411.0726.

IF ONE OF THE ABOVE STATEMENTS IS FALSE, THIS IS NOT THE CORRECT PETITION FOR YOU. You may be eligible for an order of nondisclosure under another section of the Government Code. You should return to the nondisclosure overview to determine if you are eligible for an order of nondisclosure under another section.

Additional Requirements

1. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you were or have ever been convicted of or placed on deferred adjudication for any of the offenses listed below:
 - (i) an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62;
 - (ii) an offense under Penal Code Section 20.04 (Aggravated Kidnapping);
 - (iii) an offense under any of the following sections of the Penal Code:
 - Section 19.02 (Murder);
 - Section 19.03 (Capital Murder);
 - Section 20A.02 (Trafficking of Persons);
 - Section 20A.03 (Continuous Trafficking of Persons);
 - Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
 - Section 22.041 (Abandoning or Endangering a Child);
 - Section 25.07 (Violation of Court Orders or Conditions of Bond in a family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case);
 - Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case); or
 - Section 42.072 (Stalking); or
 - (iv) any offense involving family violence, as defined by Family Code Section 71.004;

2. You are **ineligible** for an order of nondisclosure under Section 411.0726 if you were convicted of or placed on deferred adjudication for another offense (*however, do not count or include traffic offenses punishable by fine only*): (1) during the period of your deferred adjudication for the offense for which the order is requested; or (2) during the two-year waiting period following completion of your deferred adjudication for the offense for which the order of nondisclosure is requested.

3. You are **ineligible** for an order of nondisclosure under Section 411.0726 if the court made an affirmative finding that your offense involved family violence (*NOTE: This is unlikely since the offense is driving or boating while intoxicated.*)

Instructions For Completing Petition

Before Beginning Make Sure You Are Using The Correct Petition

- (1) Please leave this line blank. This is not the cause number in your criminal case. A civil case will be created when you file your petition. The clerk of the court (hereinafter “clerk”) will enter a new cause number in this space.
- (2) Please enter the name of the court in which you are filing this petition. You must file this petition in the court that placed you on deferred adjudication. The name of the court is shown on the top of the order that placed you on deferred adjudication.
- (3) Please enter your name as it appears on the order that placed you on deferred adjudication.
- (4) Please enter the name of the county in which the court that placed you on deferred adjudication is located.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the criminal cause number as shown on the order that placed you on deferred adjudication. Look for the *Case or Cause No.* on that order.
- (7) Please enter the date that you were placed on deferred adjudication for the offense for which the order of nondisclosure is requested.
- (8) **You must include evidence that shows you are entitled to file this petition.** This means that you must prove to the court that you were placed on deferred adjudication for an offense under Section 49.04 (Driving While Intoxicated) or Section 49.06 (Boating While Intoxicated), Penal Code. You can attach the Order of Deferred Adjudication. Please indicate whether proof of your deferred adjudication is attached.
- (9) Please enter the date that the court entered a discharge and dismissal in the case.

- (10) **You must include evidence that shows you are entitled to file this petition.** This means that you must prove to the court that you completed deferred adjudication and the court ordered a discharge and dismissal of the proceedings against you. You can attach a copy of your discharge and dismissal as proof. Please indicate whether proof of your discharge and dismissal is attached.
- (11) You must pay various filing fees and court costs when you file the petition. If you are unable to pay the fees and costs, you may submit a [Statement of Inability to Afford Payment of Court Costs](#). The statement is described in more detail in Rule 145 of the [Texas Rules of Civil Procedure](#). Please contact the court clerk for the court in which you are filing the petition to obtain the total amount due when you file the petition.

Please place an “x” on the line in front of the first statement, if you are paying the fees and costs. If you are submitting a **Statement of Inability to Afford Payment of Court Costs**, place a check mark or an “x” on the line in front of the second statement.

- (12) Please sign above the line.
- (13) Please TYPE your name.
- (14) Please enter your mailing address.
- (15) Please enter your city, state and zip code.
- (16) Please enter your telephone number.

Process After You Complete The Petition

If you are eligible for an order of nondisclosure under Section 411.0726, the process for obtaining an order of nondisclosure under the section is as follows:

First, be sure to wait the requisite time (*two years following completion of deferred adjudication and discharge and dismissal*) before filing the petition, and check with the court clerk to obtain the total amount due upon filing the petition, unless you are submitting a **Statement of Inability to Afford Payment of Court Costs**. Next, be sure to complete the correct petition according to the instructions, and after you have done so, print both the petition and the proposed **Order of Nondisclosure**. In most courts, you

will have to submit a proposed order with your petition. The court will complete the order, if the court grants your request.

You must file the petition in the court that placed you on deferred adjudication.

After you file the petition, the clerk will send it to the court, and the court will notify the prosecutor.

A hearing is required if the prosecutor requests one.

If a hearing is scheduled, the court will notify you. If there is a hearing, the court may ask questions regarding your eligibility to receive the order. After the hearing, if the court finds that you have satisfied the requirements of the statutes (Government Code Sections 411.0726 and 411.074) and issuance of the order is in the best interest of justice, the court will grant your request for the order.

If the court does not hold a hearing, the court will review your petition to determine whether an order of nondisclosure shall issue. The court must find that you satisfy the requirements of Sections 411.0726 and 411.074 and issuance of the order is in the best interest of justice before the court may grant your request.

Under no circumstances will the court grant an order of nondisclosure, if the prosecutor or attorney representing the state proves by sufficient evidence that your commission of the DWI offense resulted in an accident involving another person, including a passenger in your motor vehicle.

The court will have access to your criminal history record information and will use it to determine if you are eligible for the order.

If the court grants the order, the clerk will send a copy of the order to DPS no later than 15 business days after the order issues. Upon receiving the order, DPS will have 10 business days to seal, not delete, the criminal history record information that is subject to the order and forward a copy of the order to the state and federal agencies listed in [Government Code Section 411.075\(b\)](#). It is important for you to know that some agencies, including law enforcement agencies, will still have access to the information, although the information is sealed. You will find a list of such agencies at [Government Code Section 411.0765](#).