



Office of Court Administration

Instructions for Completing the Model
Petition for Order of Nondisclosure
Under Section 411.0731

THIS PETITION AND INSTRUCTIONS ARE FOR PERSONS REQUESTING AN ORDER OF NONDISCLOSURE UNDER [TEXAS GOVERNMENT CODE SECTION 411.0731](#). BEFORE BEGINNING MAKE SURE YOU ARE USING THE CORRECT 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 [TXCOURTS.GOV](#) UNDER THE RULES AND FORMS SECTION.

YOU ARE ELIGIBLE TO USE THIS PETITION IF **EACH OF THE FOLLOWING STATEMENTS IS TRUE.**

1. You were convicted of a **Class B misdemeanor DWI** under Texas Penal Code Section 49.04. *[If you were convicted of a Class A misdemeanor DWI, you are ineligible for an order of nondisclosure under Section 411.0731.]*
2. You were placed on community supervision following your conviction, including any form of community supervision that required you to serve a term of confinement. *[If you were placed on deferred adjudication community supervision, this is not the correct petition for you]*
3. Your alcohol concentration level was below 0.15.
4. You completed the period and conditions of community supervision, including any confinement and payment of all fines, costs, and restitution ordered. *[If your community supervision was revoked, you are ineligible for an order of nondisclosure under Section 411.0731.]*
5. You are a first time offender in that you have not been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense punishable by fine only.
6. The required waiting period before filing the petition has passed. *[The waiting period is two or five years following completion of your community supervision, depending on your circumstances. If you do not know the required waiting period, you should return to the Nondisclosure Overview to determine it.]*

IF ONE OF THE ABOVE STATEMENTS IS FALSE, THIS IS NOT THE CORRECT PETITION FOR YOU. You may be eligible to file a petition for an order of nondisclosure under Texas Government Code Section 411.0736. You should return to the nondisclosure overview to determine if you are eligible to file a petition under Section 411.0736.

ADDITIONAL REQUIREMENTS

1. You are **ineligible** for an order of nondisclosure under Section 411.0731, or any other section, if you were or have ever been previously convicted of or placed on deferred adjudication community supervision for any of the offenses listed below:
 - (i) an offense requiring registration as a sex offender under Texas Code of Criminal Procedure Chapter 62;
 - (ii) an offense under Texas Penal Code Section 20.04 (Aggravated Kidnapping);
 - (iii) an offense under any of the following sections of the Texas 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, 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
 - (iv) any other offense involving family violence, as defined by Texas Family Code Section 71.004.
2. You are **ineligible** for an order of nondisclosure under Section 411.0731 if you are convicted of or placed on deferred adjudication community supervision for another offense, other than a traffic offense punishable by fine only, while on community supervision for your DWI or during the applicable waiting period (*two or five years*).

3. You are **ineligible** for an order of nondisclosure under Section 411.0731 if the court made an affirmative finding that your offense involved family violence. (*NOTE: This is not likely to have occurred since the offense is Driving While Intoxicated.*)

INSTRUCTIONS FOR COMPLETING 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 community supervision. The name of the court is shown on the top of the judgment or order that placed you on community supervision.
- (3) Please enter your name as it appears on the judgment or order that placed you on community supervision.
- (4) Please enter the name of the county in which the court is located.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter the criminal cause number as it appears on the judgment or order that placed you on community supervision. Look for the *Case or Cause Number* on the judgment or order.
- (7) Please enter the date that you were convicted of Driving While Intoxicated (DWI).
- (8) **You must attach evidence that shows you are entitled to file this petition.** This means that you must prove to the court that you were convicted and placed on community supervision for a Class B misdemeanor DWI under Section 49.04, Texas Penal Code.
- (9) Please enter the date that you completed community supervision for the DWI.
- (10) **You must attach evidence that shows you are entitled to file this petition.** This means that you must prove to the court that you completed community supervision, including any term of confinement imposed and payment of all fines, costs, and restitution, if any. You can attach a copy of your discharge and dismissal, jail documents, and any receipts or other proof of payment.

(11) Please place an “x” in the box next to the statement that reflects the waiting period that applies to you.

(12) 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 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” in the box 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 an “x” in the box in front of the second statement.

(13) Please sign above the line.

(14) Please PRINT your name.

(15) Please enter your mailing address.

(16) Please enter your city, state and zip code.

(17) Please enter your telephone number.

THE PROCESS AFTER YOU COMPLETE THE PETITION

If you are eligible for an order of nondisclosure under Section 411.0731, the process for obtaining the order is as follows:

First, be sure to wait the requisite time before filing the petition (*it could be 2 or 5 years following completion of community supervision*), 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 above, and after you have done so, print both the petition and the proposed **Order of Nondisclosure**. In most courts, you have to submit a proposed order when you file 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 community supervision.

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 (Texas Government Code Sections 411.0731 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 411.0731 and 411.074 and issuance of the order is in the best interest of justice before the court can grant your request.

The court will not grant an order of nondisclosure if the prosecuting attorney proves that your commission of the DWI resulted in an accident involving another person, including a passenger in your motor vehicle.

The court will have access to your criminal history record and will use it to determine your eligibility 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 Texas Government Code Section 411.075(b). It is important to note 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 Texas Government Code Section 411.0765.