

These forms are not a substitute for legal advice.

\$2.00

PROCEDURES FOR EXPUNCTION

This form packet contains these steps to follow:

1. Texas Code of Criminal Procedure information
2. Petition for Expunction of Records
3. Petitioner's Supporting Affidavit
4. Fiat
5. Certificate of Service
6. Order for Expunction

Steps to Follow:

1. Read the [Texas Code of Criminal Procedure](#) information very carefully before you begin. This provides important information about the expunction process. Information on the [Deferred Adjudication Nondisclosure Procedures](#) are also attached.

2. Prepare the [Petition for Expunction of Records](#). If the form provided fits your set of circumstances you may use it as a "fill in the blank." If these forms do not fit your circumstances, you may re-type or re-write the forms, changing them to fit your circumstances. When preparing these forms, YOU are the "Petitioner." You will need to know the case number from your original court case. *It is perfectly all right to hand-write the forms.*

3. When preparing these forms, you will be required to list the names and addresses of each official, agency, or other entities that there is reason to believe possess records concerning the arrest. *This will be Exhibit A.*

The following is a listing of such agencies. ****Note:** The following list is not intended to be a complete listing of all possible agencies, officials, or other public entities of this state that may have records concerning the arrest. You are expected to add to and change this list to make it fit your circumstances.**

- Police department
- Sheriff's department
- Jail or other detention facility
- County or district attorney's office
- Justice of the Peace
- Texas Department of Public Safety (Crime Records Division, 512-424-2000)
- County Personal Bond Office
- Any central state depository of records that might have information concerning the arrest

- Any central federal depository of records that might have information concerning the arrest
- Clerk of the District Court in which the Petition for Expunction is being filed
- Federal Bureau of Investigation

The following is an **example** of some of the agencies that might need to be notified concerning an arrest that occurred in Collin County. Not all will apply to every case:

McKinney Police Chief
2200 Taylor-Burk Drive
McKinney, TX 75071-6651

Collin County Sheriff
4300 Community Avenue
McKinney, TX 75071

Jail Administrator
Collin County Jail
4300 Community Avenue
McKinney, TX 75071

Collin County District Attorney
2100 Bloomdale, Suite 20004
McKinney, TX 75071

Collin County District Clerk
2100 Bloomdale, Suite 10353
McKinney, TX 75071

Texas Department of Public Safety
Crime Records Division
P.O. Box 4087
Austin, TX 78773-0001

Supervisor
US Probation-Pretrial Office
Texas-Eastern District
200 N. Travis, Suite 100
Sherman, TX 75090

Federal Bureau of Investigation
Record Information/Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

4. Sign the [Jurat](#) (Affidavit) in front of a Notary Public. DO NOT sign the Affidavit UNTIL you are in front of the notary.

5. Make additional copies of the Petition and Jurat to take with you when you file. You must bring one copy for EACH official, agency, or other entity that you have listed in your Petition (Exhibit A) that there is reason to believe possesses records concerning the arrest. You will also need to bring one copy for the court to keep, one copy for the District Attorney's office, and one copy for yourself.

6. File all copies of the Petition and Jurat with the District Clerk's Office of the county in which your original case was heard/in which the original arrest was made. If this is Collin County, file these in the District Clerk's Office on the first floor of the courthouse located at 2100 Bloomdale Drive in McKinney. You will be required to pay a filing fee to the Clerk at this time.

7. Give the Clerk the [Fiat](#) form at this time. The Clerk will arrange to have a hearing date set for you.

8. The Clerk will arrange to send a copy of the Petition, Jurat, and Fiat to each of the entities that you have listed in your Petition. The Clerk will keep one copy to remain in the court's file. The Clerk will give you back one copy to keep for yourself.

9. You must send a FILED copy of the Petition and Fiat to the District Attorney's office of the county in which your original case was heard. Mail the Petition and Fiat to the District Attorney via certified mail, return receipt requested. If your original case was heard in Collin County, mail it to the following address:

Collin County District Attorney's Office
Attn: Expunction/Nondisclosure
2100 Bloomdale Drive
McKinney, TX 75071

10. Now complete the [Certificate of Service](#) form. Once you have received the completed return receipt from the postal service, attach it to the completed Certificate of Service form and file this with the District Clerk's Office.

11. Prepare the [Order for Expunction](#) prior to the hearing.

12. Make additional copies of the Order of Expunction to take with you to the hearing. You must bring one copy for EACH official, agency, or other entity that you have listed in your Petition that there is reason to believe possesses records concerning the arrest. You will also need to bring one copy for the court to keep, one copy for the District Attorney's office, and one copy for yourself. Also bring a copy of the filed Petition for Expunction with you to the hearing.

13. At the hearing, the following is recommended to properly address the court:

“Good morning, Your Honor. My name is _____. I am here today to request expunction of a record.”

Then briefly summarize each paragraph of your Petition and present the Order to the judge to be signed.

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Tex. Code Crim. Proc. art. 55.01 (2005)

Art. 55.01. Right to Expunction

(a) A person who has been placed under a custodial **or** noncustodial arrest for commission of either a felony **or** misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; or

(2) each of the following conditions exist:

(A) an indictment **or** information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment **or** information charging the person with commission of a felony was presented, the indictment **or** information has been dismissed **or** quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment **or** information was dismissed **or** quashed because the presentment had been made because of mistake, false information, **or** other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense **or** because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest.

(a-1) Notwithstanding Subsection (a)(2)(C), a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of the Department of Public Safety under Section 2(e), Article 55.02.

(b) Except as provided by Subsection (c) of this section, a district court may expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony **or** misdemeanor under the procedure established under Article 55.02 of this code if the person is:

(1) tried for the offense for which the person was arrested;

(2) convicted of the offense; and

(3) acquitted by the court of criminal appeals.

(c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court **or** the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by [Section 3.01, Penal Code](#), and the person was convicted of **or** remains subject to prosecution for at least one other offense occurring during the criminal episode.

(d) A person is entitled to have any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to the arrest of another person expunged if:

(1) the information identifying the person asserting the entitlement to expunction was falsely given by the person arrested as the arrested person's identifying information without the consent of the person asserting the entitlement; and

(2) the only reason for the information identifying the person asserting the entitlement being contained in the arrest records and files of the person arrested is that the information was falsely given by the person arrested as the arrested person's identifying information.

Tex. Code Crim. Proc. art. 55.02 (2005)

Art. 55.02. Procedure for Expunction

Sec. 1. At the request of the defendant and after notice to the state, the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, **or** a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under article 55.01(a)(1)(a) not later than the 30th day after the date of the acquittal. Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b). The attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, **or** the attorney for the state, if the defendant was not represented by counsel, shall prepare the order for the court's signature.

Sec. 2. (a) A person who is entitled to expunction of records and files under Article 55.01(a) **or** a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

(b) The petition must be verified and shall include the following **or** an explanation for why one **or** more of the following is not included:

- (1) the petitioner's:
 - (A) full name;
 - (B) sex;
 - (C) race;
 - (D) date of birth;
 - (E) driver's license number;
 - (F) social security number; and
 - (G) address at the time of the arrest;
- (2) the offense charged against the petitioner;
- (3) the date the offense charged against the petitioner was alleged to have been committed;
- (4) the date the petitioner was arrested;

(5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;

(6) the name of the agency that arrested the petitioner;

(7) the case number and court of offense; and

(8) a list of all law enforcement agencies, jails **or** other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials **or** agencies **or** other entities of this state **or** of any political subdivision of this state and of all central federal depositories of criminal records that the petitioner has reason to believe have records **or** files that are subject to expunction and private entities that compile and disseminate for compensation criminal history record information that the petition has reason to believe have information related to records or files that are subject to expunction.

(c) The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give to each official **or** agency **or** other entity named in the petition reasonable notice of the hearing by:

(1) certified mail, return receipt requested; or

(2) secure electronic mail, electronic transmission, **or** facsimile transmission.

(c-1) An entity described by Subsection (c) may be represented by the attorney responsible for providing the entity with legal representation in other matters.

(d) If the court finds that the petitioner, **or** a person for whom an ex parte petition is filed under Subsection (e), is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction.

(e) The director of the Department of Public Safety **or** the director's authorized representative may file on behalf of a person described by Subsection (a) of this section **or** by Section 2a an ex parte petition for expunction in a district court for the county in which:

(1) the person was arrested; or

(2) the offense was alleged to have occurred.

(f) An ex parte petition filed under Subsection (e) must be verified and must include the following **or** an explanation for why one **or** more of the following is not included:

(1) the person's:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number;

(F) social security number; and

(G) address at the time of the arrest;

(2) the offense charged against the person;

(3) the date the offense charged against the person was alleged to have been committed;

(4) the date the person was arrested;

(5) the name of the county where the person was arrested and if the arrest occurred in a municipality, the name of the municipality;

(6) the name of the agency that arrested the person;

(7) the case number and court of offense; and

(8) a list of all law enforcement agencies, jails **or** other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials **or** agencies **or** other entities of this state **or** of any political subdivision of this state and of all central federal depositories of criminal records that the person has reason to believe have records **or** files that are subject to expunction **and** private entities that compile and disseminate for compensation criminal history record information that the petitioner has reason to believe have information related to records or files that are subject to expunction.

Sec. 2a. (a) A person who is entitled to expunction of information contained in records and files under Article 55.01(d) may file an application for expunction with the attorney representing the state in the prosecution of felonies in the county in which the person resides.

(b) The application must be verified, include authenticated fingerprint records of the applicant, and include the following **or** an explanation for why one **or** more of the following is not included:

(1) the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time the person who falsely identified himself **or** herself as the applicant was arrested;

(2) the following information regarding the arrest:

(A) the date of arrest;

(B) the offense charged against the person arrested;

(C) the name of the county **or** municipality in which the arrest occurred; and

(D) the name of the arresting agency; and

(3) a statement that:

(A) the applicant is not the person arrested and for whom the arrest records and files were created; and

(B) the applicant did not give the person arrested consent to falsely identify himself **or** herself as the applicant.

(c) After verifying the allegations in an application received under Subsection (a), the attorney representing the state shall:

(1) include on the application information regarding the arrest that was requested of the applicant but was unknown by the applicant;

(2) forward a copy of the application to the district court for the county;

(3) attach to the copy a list of all law enforcement agencies, jails **or** other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials **or** agencies **or** other entities of this state **or** of any political subdivision of this state; and of all central federal depositories of criminal records that are reasonably likely to have records **or** files containing information that is subject to expunction; **and** private entities that compile and disseminate for compensation criminal history record information that are reasonably likely to have records or files containing information that is subject to expunction; and

(4) request the court to enter an order directing expunction based on an entitlement to expunction under Article 55.01(d).

(d) On receipt of a request under Subsection (c), the court shall, without holding a hearing on the matter, enter a final order directing expunction.

Sec. 3. (a) In an order of expunction issued under this article, the court shall require any state agency that sent information concerning the arrest to a central federal depository to request the depository to return all records and files subject to the order of expunction. The person who is the subject of the expunction order **or** an agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases.

(b) The order of expunction entered by the court shall have attached and incorporate by reference a copy of the judgment of acquittal and shall include:

(1) the following information on the person who is the subject of the expunction order:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number; and

(F) social security number;

(2) the offense charged against the person who is the subject of the expunction order;

(3) the date the person who is the subject of the expunction order was arrested;

(4) the case number and court of offense; and

(5) the tracking incident number (TRN) assigned to the individual incident of arrest under Article 60.07(b)(1) by the Department of Public Safety.

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official **or** agency **or** other governmental entity of this state **or** of any political subdivision of this state designated by the person who is the subject of the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission **or** facsimile transmission **or** otherwise by certified mail, return receipt requested. In sending the order to a governmental entity designated by the person, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

(c-1) The Department of Public Safety shall notify any central federal depository of criminal records by any means, including secure electronic mail, electronic transmission **or** facsimile transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, either:

(1) destroy **or** return to the court the records in possession of the depository that are subject to the order, including any information with respect to the order; or

(2) comply with Section 5(f) of this article pertaining to information contained in records and files of a person entitled to expunction under Article 55.01(d).

(c-1) The Department of Public Safety shall also provide, by secure electronic mail, electronic transmission, or facsimile transmission, notice of the order to any private entity that is named in the order or that purchases criminal history record information from the department. The notice must include an explanation of the effect of the order and a request that the entity destroy any information in the possession of the entity that is subject to the order. The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing notice under this subsection to the entity.

(d) Any returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation. In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate **or** revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, **or** bond hearing; or

(B) a civil case, including a civil suit **or** suit for possession of **or** access to a child.

(b) Unless the person who is the subject of the expunction order is again arrested for **or** charged with an offense arising out of the transaction for which the person was arrested **or** unless the court provides for the retention of records and files under Subsection (a) of this section, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) Except as provided by Subsections (f) and (g), on receipt of the order, each official **or** agency **or** other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record **or** file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal **or** an expunction order based on an entitlement under Article 55.01(d), the court may give the person who is the subject of the order all records and files returned to it pursuant to its order.

(c) Except in the case of a person who is the subject of an expunction order based on an entitlement under Article 55.01(d) and except as provided by Subsection (g), if an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person who is the subject of the order unless the order permits retention of a record under Section 4 of this article and the person is again arrested for **or** charged with an offense arising out of the transaction for which the person was arrested **or** unless the court provides for the retention of records and files under Section 4(a) of this article. The clerk of the court issuing the order shall

obliterate all public references to the proceeding and maintain the files **or** other records in an area not open to inspection.

(d) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal **or** an expunction order based on an entitlement under Article 55.01(d) and except as provided by subsection (g), the clerk of the court shall destroy all the files **or** other records maintained under Subsection (c) not earlier than the 60th day after the date the order of expunction is issued **or** later than the first anniversary of that date unless the records **or** files were released under Subsection (b).

(d-1) Not later than the 30th day before the date on which the clerk destroys files **or** other records under Subsection (d), the clerk shall provide notice by mail, electronic mail, **or** facsimile transmission to the attorney representing the state in the expunction proceeding. If the attorney representing the state in the expunction proceeding objects to the destruction not later than the 20th day after receiving notice under this subsection, the clerk may not destroy the files **or** other records until the first anniversary of the date the order of expunction is issued **or** the first business day after that date.

(e) The clerk shall certify to the court the destruction of files **or** other records under Subsection (d) of this section.

(f) On receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, **or** other governmental entity named in the order:

(1) shall:

(A) obliterate all portions of the record **or** file that identify the petitioner; and

(B) substitute for all obliterated portions of the record **or** file any available information that identifies the person arrested; and

(2) may not return the record **or** file **or** delete index references to the record **or** file.

(g) Notwithstanding any other provision in this section, an official, agency, court, or other entity may retain receipts, invoices, vouchers, or similar records of financial transactions that arose from the expunction proceeding or prosecution of the underlying criminal cause in accordance with internal financial control procedures. An official, agency, court, or other entity that retains records under this subsection shall obliterate all portions of the record or the file that identify the person who is the subject of the expunction order.

Tex. Code Crim. Proc. art. 55.03 (2005)

Art. 55.03. Effect of Expunction

When the order of expunction is final:

(1) the release, maintenance, dissemination, **or** use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision (3) of this article, the person arrested may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the person arrested **or** any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

Tex. Code Crim. Proc. art. 55.04 (2005)

Art 55.04. Violation of Expunction Order

Sec. 1. A person who acquires knowledge of an arrest while an officer **or** employee of the state **or** of any agency **or** other entity of the state **or** any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, **or** otherwise uses the records **or** files.

Sec. 2. A person who knowingly fails to return **or** to obliterate identifying portions of a record **or** file ordered expunged under this chapter commits an offense.

Sec. 3. An offense under this article is a Class B misdemeanor.

FAQs – Deferred Adjudication Nondisclosure Procedures

Caveat	These answers are provided as a public service and represent the District Attorney's good faith understanding of the Texas non-disclosure statute. They are not intended to substitute for independent legal analysis by an attorney in private practice, however. The District Attorney strongly urges anyone pursuing a petition for nondisclosure to consult with an attorney of his or her own choice.
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Q. Are deferred adjudication records public?

A. Yes. Although there is a common misconception that deferred adjudication records are removed from a defendant's criminal history upon successful conclusion of the community supervision (probation) period, the law does not provide for automatic expunction of deferred adjudication records.

Accordingly, unless there is a court order directing otherwise, records of a prosecution resulting in a deferred adjudication are publicly available in the District Clerk's records and the Justice Information Management System (JIMS) database.

Q. Can deferred adjudication records be made non-public by request?

A. Yes, in some instances. There are two ways that deferred adjudication community supervision records can be made non-public:

- (1) ***Class C deferred adjudications*** -- By filing an expunction under Article 45.051(e), Code of Criminal Procedure (if the Class C deferred adjudication was imposed in justice court or municipal court); or by filing an expunction under Article 55.01(a)(2), Code of Criminal Procedure (if the Class C deferred adjudication was imposed in county or district court). **Expunction is not available for deferred adjudication sentences for Class B, Class A, or felony offenses.**
- (2) ***Petition for nondisclosure*** – Under Section 411.081(d), Government Code, a court can prohibit criminal justice agencies from disclosing to the public criminal history record information related to certain offenses for which the offender was placed on deferred adjudication. There are many offenses, however, for which this procedure is unavailable. Moreover, a defendant may be disqualified if he commits an offense after the deferred adjudication has been completed and before filing the petition.

Q. Which defendants are **ineligible** to seek an order of nondisclosure?

A. Under Section 411.081(e)(1)-(4), Government Code, anyone who has *ever* committed any of the following offenses (including as the offense for which the defendant got deferred adjudication) is not entitled to seek an order of nondisclosure

- Indecency with a child
- Sexual assault
- Aggravated sexual assault

- Prohibited sexual conduct (incest)
- Aggravated kidnapping
- Burglary of a habitation with intent to commit any of the above offenses
- Compelling prostitution
- Sexual performance by a child
- Possession or promotion of child pornography
- Unlawful restraint, kidnapping, or aggravated kidnapping of a person younger than 17 years of age
- Attempt, conspiracy, or solicitation to commit any of the above offenses
- Capital murder
- Murder
- Injury to a child, elderly individual, or disabled individual
- Abandoning or endangering a child
- Violation of protective order or magistrate's order
- Stalking
- Any other offense involving family violence

Q. **When** is an otherwise eligible defendant allowed to seek an order of nondisclosure?

A. Under Section 411.081(d), the defendant has to wait a certain period of time after the date of discharge and dismissal before filing a petition for an order of nondisclosure. The operative date is *not* the date that the defendant entered his plea: it is the date that the deferred adjudication was *concluded*.

Kind of offense

Waiting Period

All felonies

5 years from date of discharge and dismissal.

The following misdemeanors:

2 years from date of discharge and dismissal.

- Abuse of corpse
- Advertising for placement of child
- Aiding suicide
- Assault
- Bigamy
- Cruelty to animals
- Deadly conduct
- Destruction of flag
- Discharge of firearm
- Disorderly conduct
- Disrupting meeting or procession
- Dog fighting
- False alarm or report
- Harassment
- Harboring runaway child
- Hoax bombs
- Indecent exposure
- Interference with emergency telephone call
- Leaving a child in a vehicle

- Making a firearm accessible to a child.
- Obstructing highway or other passageway
- Possession, manufacture, transport, repair or sale of switchblade knife or knuckles
- Public lewdness
- Riot
- Silent or abusive calls to 9-1-1 service
- Terroristic threat
- Unlawful carrying of handgun by license holder
- Unlawful carrying weapons
- Unlawful possession of firearm
- Unlawful restraint
- Unlawful transfer of certain weapons
- Violation of protective order preventing offense caused by bias or prejudice

All other misdemeanors:

May file *immediately* upon discharge and dismissal.

You will need the following information in your petition:

- ❖ The original court and case number in which the deferred adjudication was imposed.
- ❖ The date of the original plea of guilty or no contest.
- ❖ The offense for which the defendant was placed on deferred adjudication.
- ❖ The date upon which the court dismissed the proceedings and discharged the defendant from deferred adjudication community supervision.

This information is generally available from the District Clerk's public service office

Q. When will the petition be heard?

A. Generally, the petition will be docketed for a hearing in the original court **fourteen days** after the date of filing. Do not miss the hearing date, or the petition may be dismissed for want of prosecution.

NOTE If filing a non-disclosure for a **felony** case, you need to obtain a hearing date from the court coordinator where your initial case was originally heard. Then, you will need to file your petition with the District Clerk's office.

Q. What needs to be proven at the hearing?

A. A defendant needs to be prepared to provide evidence of the following elements:
The defendant entered a plea of no contest or guilty to the offense
The Court placed the defendant on deferred adjudication community supervision.

The Court dismissed the proceedings in this case and discharged the defendant from deferred adjudication community supervision.

The defendant is not disqualified from filing a petition under Section 411.081(e).

The petition was timely filed under Section 411.081(d).

Issuance of the order is in the best interest of justice.

The Court will either sign an order granting the petition (click [here](#) for the form order granting the petition) or denying the petition (click [here](#) for the form order denying the petition). Please bring these forms with you to court and fill in the pertinent identifiers and information regarding your deferred adjudication.

Q. What is the effect of the order of nondisclosure?

A. The court's order will be sent to the Department of Public Safety. The Department of Public Safety will then send the order to all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state, and to all central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order. Those entities are obliged not to disclose the deferred adjudication record information to anyone other than

- Other criminal justice agencies
- For criminal justice or regulatory licensing purposes
- An agency or entity listed in Section 411.081(i)
- The person who is the subject of the order.

These forms are not a substitute for legal advice

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CASE NO. _____
[To be filled in by District Clerk's Office]

IN RE) IN THE DISTRICT COURT OF
) _____ COUNTY, TEXAS
) [Print name of county where you were arrested]
) _____ JUDICIAL DISTRICT
 [PRINT your first, middle and last name]) [To be filled in by District Clerk's Office]

Petition for Expunction

TO THE HONORABLE JUDGE OF THIS COURT:

My name is

[PRINT your first, middle and last names.]

I am representing myself in this Petition for Expunction of Records. I am entitled to have my records expunged under Chapter 55 of the Code of Criminal Procedure, for the following reasons:

1. Grounds for Expunction:

I am entitled to have all records and files concerning the arrest expunged for the following reason:

[CHECK one.]

a. I was tried for the offense described below on _____ [date] and was acquitted by the trial court on _____ [date].

b. I was tried for the offense described below on _____ [date] and was convicted on _____ [date]. I was pardoned for this offense by _____ on _____ [date].
[name and title of pardoning official]

c. I was tried for the above offense on _____ [date] and was convicted on _____ [date]. The Court of Criminal Appeals acquitted me of this offense on _____ [date].

d. No indictment or information has been presented against the me for an offense arising out of the transaction leading to the arrest. I have been released from custody on this charge. Any charges against me arising out of my arrest have not resulted in a final conviction and are no longer pending. There was no court-ordered probation under

Article 42.12 of the Texas Code of Criminal Procedure on this matter. I was not released on a conditional discharge under former § 481.109 of the Texas Health and Safety Code. I have not been convicted of a felony in the five years preceding the date of the arrest.

e. The charges against me have been dismissed because _____

[state reason for dismissal].

I have been released from custody on this charge. Any charges against me arising out of this arrest have not resulted in a final conviction and are no longer pending. There was no court-ordered probation under Article 42.12 of the Texas Code of Criminal Procedure on this matter. I was not released on a conditional discharge under former § 481.109 of the Texas Health and Safety Code. I have not been convicted of a felony in the five years preceding the date of the arrest.

2. Arrest /Offense to be Expunged:

I was arrested on: _____
[PRINT month, day and year of arrest.]

I was arrested in _____ [city] in _____ County, Texas.

The offense was alleged to have occurred on [date] _____.

I was arrested by: _____,
[PRINT name of arresting officer.] [PRINT name of arresting agency.]

I was arrested for: _____
[PRINT name of offense you were arrested for.]

The offense / incident report number is: _____
[PRINT offense / incident report number.]

My SID number is: _____
[PRINT your SID number.]

My case number is: _____ and court number is _____
[PRINT your case number.] [PRINT the court number.]

3. Criminal Justice Agencies:

I believe the following criminal justice agencies have records or files relating to this Petition for Expunction. They should be served with notice of this motion. [LIST the names and addresses of all officials and agencies that may have records of your arrest. For example, police departments, sheriff's departments, jail or other detention facilities, county or district attorney's offices, Justice of the Peace, Texas Department of Public Safety Crime Records Division (512-424-2000), County or Municipal Personal Bond Office, any central depository of records that might have information concerning the arrest, Clerk of the District Court, FBI, etc.]

a. Name: _____

Address: _____

b. Name: _____
Address: _____

c. Name: _____
Address: _____

d. Name: _____
Address: _____

e. Name: _____
Address: _____

f. Name: _____
Address: _____

g. Name: _____
Address: _____

h. Name: _____
Address: _____

i. Name: _____
Address: _____

j. Name: _____
Address: _____

4. Identifying Information:

I provide the following information about myself to assist the agencies listed above in clearing my record:

a. My full name is: _____
[PRINT your first, middle and last names.]

b. I am: [CHECK one.] male female.

c. My race is: [CHECK one.]
 white black Hispanic Asian other [Describe.] _____

d. The last four digits of my social security number are: _____

e. My Texas Driver's License number is: _____

f. My Date of Birth is: _____

g. At the time of the arrest, I lived at the following address:

5. Relief Requested:

I ask the Court to set this case for a hearing, and to give reasonable notice of the hearing to each official agency listed above. After a hearing on this matter, I ask the Court to order each agency to:

a. To give reasonable notice of the hearing to each official, agency, or other public entity named in paragraph III of this petition pursuant to Article 55.02, section 2 of the Texas Code of Criminal Procedure.

b. After hearing on this matter, to order each official, agency, or other public entity that there is reason to believe possesses records or files concerning the arrest to:

- i.. Return all records and files concerning the arrest to the Court, or if removal is impracticable, to obliterate all references to Petition and notify the Court of its action.
- ii. Request each central federal depository to which it supplied information concerning the arrest of Petitioner to return all such records and files to the Court, or if removal is impracticable, to obliterate all references to Petition and notify the Court of its action.
- iii. Delete from its public records all index references to the above-mentioned arrest of the Petitioner.

c. To direct the clerk of the court to send a certified copy of the order by certified mail, return receipt requested, to the Texas Department of Public Safety and to each official, agency, or other entity named in paragraph III of the Petition; and to direct the Texas Department of Public Safety to send to each central federal depository an explanation of the effect of the order as well as a request for the return or destruction of the records held by the central federal depository.

d. To return to the Petitioner, all records, files, and notifications of the disposition of records and files returned to the Court pursuant to its expunction order within a reasonable time of the receipt of same.

Respectfully submitted,

[SIGN your first, middle and last names.]

[PRINT your first, middle and last names.]
Petitioner, Pro se

Attach *Exhibit A* to this petition

CASE NO. _____
[To be filled in by District Clerk's Office]

IN RE) IN THE DISTRICT COURT OF
) _____ COUNTY, TEXAS
) [Print name of county where you were arrested]
) _____ JUDICIAL DISTRICT
 [PRINT your first, middle and last name]) [To be filled in by District Clerk's Office]

JURAT

On this day, [PRINT your first, middle and last names.]
_____ appeared before me, the undersigned
authority. After being sworn in, s/he stated the following:

“My name is _____
[PRINT your first, middle and last names.]”

I have read the above Petition for Expunction in this case, and I swear all the facts stated in
this Petition are true and correct.”

Petitioner, Pro se
**[Do not sign your first, middle and last names until
you are in front of a notary.]**

TO BE COMPLETED BY NOTARY:

State of Texas
County of _____
[PRINT the name of the county where this petition is notarized.]

SWORN to and SUBSCRIBED before me, the undersigned authority, on [date] _____ by

[PRINT the first and last names of the Petitioner.]

Notary Public, State of Texas [Notary's signature.]

[Notary's seal must be included.]

CASE NO. _____
[To be filled in by District Clerk's Office]

IN RE) IN THE DISTRICT COURT OF
) _____ COUNTY, TEXAS
) [Print name of county where you were arrested]
) _____ JUDICIAL DISTRICT
[PRINT your first, middle and last name]) [To be filled in by District Clerk's Office]

FIAT

Take notice that the Petitioner's foregoing Petition for Expunction of Records is hereby set for hearing on the _____ day of _____, 20__, at _____ [time] in the _____ [name & designation of court] Court of _____ [name of county] County, Texas.

SIGNED this the _____ day of _____, 20__.

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I certify that a true copy of the above Petition has this day been sent by certified mail, return receipt requested to:

[name & address
of District Attorney's office]

On this _____ day of _____, 20__.

[Signature]

[Print your first and last name]

[Address and Telephone No.]

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[Fill in the blanks on the top of this form exactly as they appear on the Original Petition for Expunction.]

CASE NO. _____

IN RE) IN THE DISTRICT COURT OF
) _____ COUNTY, TEXAS
)
) _____ JUDICIAL DISTRICT

[PRINT your name]

ORDER FOR EXPUNCTION

I. Jurisdiction and Notice:

Today, this case came before the Court for hearing. After reviewing the file, the Court finds all parties entitled to notice of this proceeding have been notified. The Court has jurisdiction over this case.

II. Arrest /Offense to be Expunged:

The Court finds:

Petitioner was arrested on: _____
[PRINT month, day and year of arrest.]

Petitioner was arrested in _____ [city]
in _____ County, Texas.

Petitioner was arrested by: _____
[PRINT name of arresting agency.]

Petitioner was arrested for: _____
[PRINT name of offense you were arrested for.]

The offense was alleged to have occurred on _____ [date].

The offense / incident report number is: _____
[PRINT offense / incident report number.]

Petitioner's SID number is: _____
[PRINT your SID number.]

A case was filed against Petitioner in the _____ Court of
_____ County, Texas.

The case was resolved when: [CHECK one of the following.]

charges were dismissed. Petitioner was acquitted. Petitioner was pardoned.

other _____

[Describe how the case was resolved.]

III. Expunction

The Court further finds Petitioner’s request for Expunction should be:

[TO BE COMPLETED BY THE COURT.]

denied.

granted.

Therefore, the Court ORDERS that all records and / or files concerning the arrest of

_____ on _____
[PRINT your first, middle and last names.] [PRINT month, day and year of arrest.]

are EXPUNGED.

IV. Actions to be taken

[TO BE COMPLETED BY THE COURT.]

Petitioner’s motion has been denied. No further action is to be taken.

Petitioner’s motion has been granted. IT IS THEREFORE ORDERED:

1. Any official, agency, or other entity listed below that has sent information concerning the arrest to a central federal depository of criminal records request that agency to return the records to the Court, or if removal is impracticable, to obliterate all references concerning the Petitioner and notify the Court of its action.
2. Each official, agency, or other entity listed below return all records concerning the arrest to the Court, or if removal is impracticable, to obliterate all references to Petitioner and notify the Court of its action.
3. Each official, agency, or other entity listed below delete from its public records all index references to the arrest of the Petitioner that is the subject of the cause.
4. The clerk of the court send a certified copy of this order by certified mail, return receipt requested, to the Texas Department of Public Safety and to the following:

a. Name: _____
Address: _____

b. Name: _____
Address: _____

c. Name: _____
Address: _____

d. Name: _____
Address: _____

e. Name: _____
Address: _____

f. Name: _____
Address: _____

g. Name: _____
Address: _____

h. Name: _____
Address: _____

i. Name: _____
Address: _____

j. Name: _____
Address: _____

and that the Texas Department of Public Safety send to _____ [name of central federal depository] an explanation of the effect of the order and request it to return or destroy the records of petitioner in compliance with this Order.

V. Petitioner's Identifying Information

The following information is provided to assist the agencies in identifying records related to this Expunction Order.

a. Petitioner's full name is: _____
[PRINT your first, middle and last names.]

b. Petitioner is: [CHECK one.] male female.

c. Petitioner's race is: [CHECK one.]
white black Hispanic Asian other [Describe.] _____

d. Petitioner's social security number is: _____.

e. Petitioner's Texas Driver's License number is: _____.

f. Petitioner's Date of Birth is: _____.

g. At the time of the arrest, Petitioner lived at the following address:
_____.

SO ORDERED on this _____ day of _____ [month] of _____ [year].

JUDGE PRESIDING