

What's the difference between Expunction and Nondisclosure? Both are procedures used to clean up adult criminal history records, which can impact job searches, professional licenses, and credit scores. Laws differ by state. In Texas, expunction can permanently remove entries from an adult criminal history record, but it is *very* limited. Nondisclosure (sealing) hides certain offenses from *public* disclosure, but they are still visible to criminal justice agencies, licensing agencies and certain government entities. Eligibility depends on the type of offense and type of community supervision (probation). Texas has two types of community supervision: deferred adjudication and regular community supervision. Offenses ending conviction or regular community supervision are never eligible for expunction or nondisclosure.

Will a deferred adjudication stay on my record? YES. At the end of deferred adjudication community supervision, the court will dismiss the charges without a conviction. However, the offense and sentence of deferred adjudication stays on your record and can show up in public and private background searches.

EXPUNCTION: In Texas, expunction applies to:

- *Class C misdemeanors* resulting in deferred adjudication OR
- *Offenses not resulting in conviction* regardless of level, where charges were not filed, charges were dismissed, or the person was acquitted or pardoned.

There is a minimum waiting period before filing an application for expunction: Class C misdemeanors-180 days; Class A and B misdemeanors-1 year; Felonies-3 years.

How do I file for expunction? File the Application for Expunction in the arresting county, along with a fingerprint card from the Department of Public Safety. The clerk will notify DPS and set a court hearing no earlier than 30 days from the date of filing. Effect of Expunction: An Order of Expunction removes the entry from your criminal record. You are not required to mention it on job applications or anywhere else. For a free expunction packet with forms, go to www.texaslawhelp.org.

NONDISCLOSURE: Nondisclosure (sealing) applies only to certain misdemeanors and felonies that ended in deferred adjudication discharge or dismissal. **Ineligible Offenses:** Regardless of the record you want sealed, you are NOT eligible for nondisclosure if you've EVER been convicted or received deferred adjudication for ANY of the following:

- Offenses requiring registration as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure;
- Certain violations of Texas Penal Code: murder ([19.02](#)) and capital murder ([19.03](#)); aggravated kidnapping ([20.04](#)); injury to a child, elderly or disabled person ([22.04](#)), abandoning or endangering a child ([22.041](#)); stalking ([42.072](#)); violation of bond conditions of certain family violence, sexual assault or abuse, or stalking offenses ([25.07](#); [25.072](#)).
- Offenses involving family violence under Texas Family Code section [71.004](#).

Two types of Nondisclosure: There are two methods of nondisclosure in Texas:

1. Automatic nondisclosure for first time misdemeanors: Automatic nondisclosure applies only to 1) *first time misdemeanors* (other than traffic fines) regardless of level, 2) occurring *after September 1, 2015*, 3) that resulted in deferred adjudication ending in discharge or dismissal. If you meet all legal requirements at the end of the period of deferred, the judge *must* order nondisclosure. You don't have to file anything and there is no waiting period.
2. Nondisclosure with petition: A petition is required for all eligible offenses and for misdemeanors that don't qualify for an automatic order. The minimum waiting period for filing runs from the date of dismissal or discharge. Misdemeanors under Texas Penal Code Chapters 20, 21, 22, 25, 42, or 46 - 2 years; felonies- 5 years; everything else - no waiting period.

How do I petition for nondisclosure? File a Petition for Nondisclosure in the convicting court. The clerk will notify the state (prosecutor), who has 45 days from notification to request a hearing. If you meet all the requirements, the judge will grant an Order of Nondisclosure. Effect of Nondisclosure: You are not required to disclose the offense information on job applications or anywhere else. However, it stays on your record and is visible to law enforcement and other government entities. A free sample petition for an order of nondisclosure is available at www.txcourts.gov/rules-forms.

⇒ *Follow up* to make sure the information was removed or sealed according to the court's order. If not, you may have other legal remedies.