LANCE KENNEDY LAW

The Expunction and Nondisclosure Book

How Texas records get cleared, who qualifies, and when

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Contents

Read This First

Your case is over, or nearly over, and you have discovered the thing nobody warned you about: the record does not end when the case does. The arrest, the booking photo, the charge, the court file, the disposition: all of it sits in public databases right now, visible to any employer, landlord, licensing board, or background check company that goes looking. A dismissed case shows up. A no-bill shows up. An acquittal shows up. In Texas, a record does not clear itself. Someone has to make it happen, and this book explains how.

Texas gives you two tools. An **expunction** destroys the records. An **order of nondisclosure** seals them from public view. They are not interchangeable, you almost never get to choose between them, and which one is available was decided the day your case ended, by how it ended. That single fact organizes this entire book, and it should organize how you read it.

> **If your case is still open, stop and read the last chapter first.** Everything in this book depends on the disposition of your case: acquittal, dismissal, deferred adjudication, or conviction. Once the disposition is entered, it is usually locked. If you still have a case pending, you still have the power to choose the ending, and the ending decides what your record can look like for the rest of your life. That is a conversation to have with your lawyer now, not after the plea.

Here is the reassurance you need up front: Texas record-clearing law is broader than most people believe. Cases that ended without a conviction can often be erased entirely. First-time deferred adjudications can often be sealed, some of them automatically. Even certain convictions, including some first DWIs, have a sealing path that most people have never heard of. The law changed significantly in 2015, 2017, 2019, and again in 2025, and the rules you may have heard from a friend, a forum, or an old lawyer may simply be out of date.

This book states the law as it stands under Chapter 55A of the Code of Criminal Procedure and Chapter 411 of the Government Code, current through the 89th Legislature (2025). It is general information, not legal advice, and eligibility always turns on details a book cannot see: the exact statute you were charged under, what your judgment actually says, and your complete history. When you finish reading, the next step is a case review, and ours is free: (737) 324-7540.

Here is how the book is laid out. The first chapter separates the two tools. Chapters two and three cover expunction: who qualifies and how long the waits run. Chapters four through six cover sealing, including the three DWI paths and the interlock rule that cuts years off two of them. Chapters seven and eight are the honest chapters: what a sealed record still shows, and what can never be cleared at all. Chapter nine walks the process, costs, and timeline. The last chapter shows you how to use all of it as strategy, whether your case is long over or still on the docket.

The Two Tools: Destruction Versus Concealment

Start with the difference that controls everything else. Texas clears criminal records in two completely different ways, under two completely different statutes, with two completely different results.

Expunction: the record is destroyed

An expunction, governed by Chapter 55A of the Code of Criminal Procedure, is an order requiring every agency that holds records of your arrest to return them to the court or destroy them. The police report, the booking records, the court file, the entry in the state criminal history database: the order reaches all of it. The Department of Public Safety also notifies the federal record depositories and the private companies that buy criminal history data from the state, with instructions to destroy what they hold.

The legal effect is written directly into the statute. Once the expunction order is final, the release or use of the expunged records for any purpose is prohibited, and you may lawfully **deny that the arrest ever happened** and deny that the expunction order exists. There is one exception worth memorizing: if you are questioned under oath in a criminal proceeding about an expunged arrest, you may state only that the matter has been expunged. Everywhere else, on job applications, apartment applications, and licensing forms, the arrest is legally treated as if it never occurred.

Nondisclosure: the record is hidden

An order of nondisclosure, governed by Subchapter E-1 of Chapter 411 of the Government Code, does not destroy anything. It prohibits criminal justice agencies from disclosing the record to the public. Private background check companies, employers, landlords, and the curious lose access. But the record still exists, and a defined list of government agencies and licensing bodies can still see it. Sealing is concealment, not erasure.

Sealing still carries real legal power. Under Section 411.0755, once your record is sealed you are not required to disclose the criminal proceeding in applications for employment, information, or licensing. For most of ordinary life, a sealed record functions like a cleared one. The exceptions, and they matter, are covered in the chapter on what a sealed record still shows.

Which tool is yours? You usually do not get to pick

People often ask whether they should get an expunction or a nondisclosure, as if choosing between them. The law almost never gives you that choice. The dividing line is simple and brutal:

	Expunction (Ch. 55A)	Nondisclosure (Ch. 411)
What happens to the record	Destroyed or returned to the court	Sealed from public view; agencies keep it
Who can still see it	No one, once the order is final	Law enforcement, prosecutors, courts, and listed licensing agencies
Can you deny it?	Yes, with the under-oath exception	Yes on most applications, under Section 411.0755
Typical qualifying endings	Acquittal, dismissal, no-bill, never charged, pardon, Class C deferred	Completed deferred adjudication; certain first-offense misdemeanor convictions, including some DWIs
What kills eligibility	A final conviction, or court-ordered supervision above Class C, on any charge from the arrest	The permanent disqualifiers in Section 411.074, felony convictions, and the exclusions in each section

Read the last two rows again, because they contain the rule that surprises almost everyone. If your case ended in a conviction, or in deferred adjudication above the Class C level, expunction of that arrest is off the table. Deferred adjudication ends in a dismissal, and people reasonably assume a dismissed case can be erased. It cannot, because the deferred itself was court-ordered community supervision, and Article 55A.051 excludes any arrest that led to supervision above a Class C. For those cases, sealing is the remedy, and the rest of this book covers both tracks.

One more orientation point. Nothing in this system is automatic except one narrow path you will meet in the nondisclosure chapter. If you were acquitted, the court can enter the order quickly, but someone still has to ask. If your charge was dismissed years ago, the record is still sitting there today. The system waits for you.

The questions everyone asks first

Doesn't a dismissed case fall off my record after seven years? No. There is no automatic aging-off of Texas criminal records. Federal fair-credit-reporting rules limit how long some background check companies may report certain arrests that never became convictions, which is probably where the seven-year folklore comes from, but the government records themselves, at the courthouse, the arresting agency, and DPS, stay public indefinitely until a court orders them expunged or sealed. A dismissal from 1998 is still findable today.

I was found not guilty, so my record is clean, right? Unfortunately, no. An acquittal ends the prosecution, not the paper trail. The arrest, the booking, the charge, and the trial all remain public record until expunged, and a background check will show you were arrested and tried. The law treats acquitted people generously, an entitlement to expunction with the court required to act within 30 days of a request, but the request still has to be made.

Can I just ask the police or the court to delete it? No. Agencies have no authority to destroy criminal records on request; most are legally required to keep them. Only a court order under Chapter 55A or Chapter 411 changes what they hold or what they may release. Anyone selling record deletion without a court order is selling something that does not exist.

What about my federal case, or my case from another state? These Texas tools reach Texas records. A federal prosecution or an out-of-state case runs under that jurisdiction's law, which may be broader or narrower than Texas's. A Texas expunction does require state agencies to ask the federal record depositories to return the expunged Texas records, but clearing a non-Texas case takes that jurisdiction's own process.

If my record is sealed, can it still be used against me later? In the criminal system, yes. Sealing hides the record from the public, not from police, prosecutors, or judges, and a sealed case can count as a prior and be admitted in a later prosecution. That is the concealment half of the bargain, and it is covered in detail in the sealed-record chapter.

Expunction Under Chapter 55A: The Four Main Roads

Texas recodified its expunction statute effective January 1, 2025. The old law, Chapter 55, became Chapter 55A, reorganized and renumbered but carrying the same basic architecture. If you researched expunction before 2025, or your lawyer's forms still cite Article 55.01, the substance mostly survived, but every citation changed. This book uses the current numbering.

Chapter 55A applies to anyone placed under a custodial or noncustodial arrest for a felony or misdemeanor. The threshold conditions for the release-based routes come from Article 55A.051, and they are worth stating plainly: you were released, the charge (if any) did not end in a final conviction and is no longer pending, and there was no court-ordered community supervision under Chapter 42A for the offense, other than for a Class C misdemeanor. Clear those, and one of four main roads applies.

Road one: acquittal

If you were tried and found not guilty, Article 55A.002 says you are **entitled** to have all records and files relating to the arrest expunged. Not eligible to apply. Entitled. And the procedure matches the strength of the right: under Article 55A.201, at your request the trial court itself must enter the expunction order within 30 days of the acquittal, and the court is required to advise you of the right when it acquits you. If you request it through the trial court promptly, the filing fees are generally waived when the petition comes within 30 days of the acquittal. If that never happened in your case, the right did not expire; the order can still be requested now, through a petition.

There is one trap: the criminal episode rule of Article 55A.151. If the acquitted charge arose out of a criminal episode and you were convicted of, or can still be prosecuted for, another offense from that same episode, the court may not order the expunction. Whether two charges truly form one episode is a genuine legal question, so do not assume this bar applies to you without a lawyer's read.

An acquittal on appeal, after a conviction at trial, follows a different article. Under Article 55A.101 the expunction is discretionary with the court rather than automatic, and the same episode rule applies.

Road two: dismissal

Most cleared records in Texas start here, and the details matter more than anywhere else in the chapter. If a charging instrument (an information or indictment) was filed and then dismissed or quashed, Article 55A.053 grants expunction when the court finds the dismissal happened for a qualifying reason:

- You completed a **veterans treatment court program** under Chapter 124 of the Government Code. This ground can be used once in a lifetime, and you must file an affidavit confirming you have not used it before.
- You completed a **mental health court program** under Chapter 125. Also once in a lifetime, with the same affidavit requirement.
- You completed a **pretrial intervention or diversion program** authorized under Section 76.011 of the Government Code.
- The charge was dismissed because of **mistake, false information, or another reason indicating absence of probable cause** at the time of the dismissal.
- The charging instrument was **void**.

A qualifying dismissal carries no waiting period. This is why the exact wording of the State's motion to dismiss matters years after anyone thought about it: a dismissal that recites lack of probable cause opens the immediate door, while a bare dismissal may leave you waiting on the limitations route described below. If you are negotiating a dismissal right now, this paragraph is a reason to have your lawyer negotiate the wording, not just the result.

What if the case was dismissed for some other reason, or the paperwork does not say? You are not out. Article 55A.054 grants expunction once prosecution is no longer possible because the **limitations period has expired**. Most misdemeanors carry a two-year limitations period; felonies run three years or far longer depending on the offense, and some have none. And separately, the waiting-period route of Article 55A.052 described under road three is available when no charging instrument was ever presented.

Road three: never charged, and the no-bill

Plenty of arrests never turn into court cases. The charges are declined, the file goes quiet, or a grand jury hears the felony and returns a **no-bill**, declining to indict. A no-bill means no indictment was presented, so these cases travel the same road: Article 55A.052, expunction after a waiting period measured from the date of arrest. The periods, and the fast lane around them, get their own chapter next.

One reassuring feature of this road: Article 55A.052(b) says you are entitled to the expunction regardless of whether any limitations period exists for the offense or has expired. The waiting period is the only clock you need on this road.

Road four: pardon

A conviction normally ends the expunction conversation, but a pardon reopens it. Under Article 55A.003, a person convicted and later pardoned or granted relief **on the basis of actual innocence** is entitled to expunction, and the court must enter the order within 30 days of receiving notice of the pardon, provided the pardon or order clearly says on its face that it was granted for actual innocence. Under Article 55A.004, a pardon granted for any other reason also entitles you to expunction of the arrest records, through the ordinary petition process. If you hold a pardon, read its face carefully; the wording decides which article, and which procedure, applies.

The special cases

Chapter 55A also contains narrow grounds most readers can skip: expunction of certain pre-September 2021 unlawful carrying convictions (Article 55A.005), and an identity-theft route (Article 55A.006) for people whose names ended up in someone else's arrest records through clerical error or deception, which works through an application to the district attorney rather than an ordinary petition. If someone else's arrest is showing up on your background check, that second one is your road, and it has no waiting period at all.

Waiting Periods: How Long, and Why the Clock Exists

If no charging instrument was ever filed, or the grand jury no-billed you, expunction is not immediate. Article 55A.052 makes you wait, and the wait scales with the seriousness of what you were arrested for:

Arrest level	Waiting period	Clock starts
Class C misdemeanor	At least 180 days	Date of arrest
Class A or B misdemeanor	At least 1 year	Date of arrest
Felony, or any felony arising from the same transaction	At least 3 years	Date of arrest

Two details in that table bite people. First, the clock runs from the **arrest**, not from the day the case died, which usually works in your favor: by the time charges are formally declined, part of the wait has often already run. Second, the felony line is broader than it looks. If any felony charge arose out of the same transaction as your misdemeanor arrest, even one that was never formally filed against you, the whole arrest sits on the three-year period.

A worked example makes the arithmetic concrete. Say you were arrested on March 1, 2025, for a Class B misdemeanor, and the county attorney declined the case that summer without ever filing an information. Your waiting period is one year from the arrest, so the earliest filing date is March 1, 2026, regardless of when the declination happened. If a felony had been screened out of the same incident, the date moves to March 1, 2028. And if the prosecutor will sign the certification described below, the date can become next month. Same arrest, three very different calendars, which is why the first task in any review is reconstructing exactly what was arrested for, filed, and declined.

Why the waiting periods exist

The waits are not bureaucratic cruelty. They exist because a case that was never charged is not necessarily a case that is over. Until limitations run or the State closes the file, prosecutors can still present an indictment. The waiting period is the legislature's compromise: the State keeps a window to act, and if it does not act, you get your record back. Understanding the purpose tells you how to shortcut it.

The fast lane most people never use. Article 55A.052(a)(4) removes the waiting period entirely if the attorney representing the State certifies that the arrest records are not needed for any criminal investigation or prosecution. Prosecutors sign these certifications more often than you might expect, especially in declined cases that are plainly dead. It costs nothing to ask, and a lawyer who regularly works with the local district attorney's office knows how to ask. A three-year wait can collapse to a matter of weeks.

The Class C deferred: a hidden expunction

Here is a rule that surprises even lawyers who do not work in this area. Deferred adjudication normally destroys expunction eligibility, but Article 55A.051 carves out one exception: deferred adjudication for a **Class C misdemeanor**. Complete a Class C deferred, get the dismissal, and the arrest can be expunged once the 180-day period from the arrest has run. Since many Class C deferreds last 90 to 180 days anyway, eligibility often arrives almost immediately after dismissal. If you took a deferred on a ticket-level offense years ago, that record may be sitting there, fully erasable, right now.

Two ways to lose the road entirely

Chapter 55A contains two hard stops worth knowing. Under Article 55A.153, an arrest made on a warrant for violating community supervision can never be expunged. And under Article 55A.154, a person who intentionally or knowingly absconds from the jurisdiction after being released on bond loses the waiting-period and limitations routes for that arrest. If you skipped out on a bond years ago and the case later died, this is a wrinkle your lawyer needs to know about before filing anything.

Nondisclosure Under Chapter 411: The Map of Sealing Paths

Now the second tool. If your case ended in deferred adjudication above Class C, or in certain misdemeanor convictions, sealing under Government Code Chapter 411, Subchapter E-1 is the available remedy. The subchapter is a map of separate numbered paths, each with its own entry requirements and its own waiting period. Finding your path is most of the work.

Section 411.072: the automatic path

This is the only place in Texas record-clearing law where the system moves without a petition. If you were placed on deferred adjudication for a **first-time misdemeanor** outside the excluded categories, and you receive the discharge and dismissal, the court is required to issue the nondisclosure order itself. The timing is set by statute: at the discharge and dismissal if it comes 180 days or more after you were placed on deferred, or as soon as practicable after the 180th day if you finished faster. You pay a $28 fee to the clerk. No petition, no hearing, no separate case.

The exclusions define the path. Automatic sealing is not available if the misdemeanor was DWI or boating while intoxicated (Penal Code Sections 49.04 and 49.06), or fell under Penal Code Chapters 20 (kidnapping and unlawful restraint), 21 (sexual offenses), 22 (assault), 25 (offenses against the family), 42 (disorderly conduct), 43 (public indecency), 46 (weapons), or 71 (organized crime), or if the case carries an affirmative finding under Article 42A.105(f) that automatic sealing is not in the best interest of justice. It also requires that you had never before been convicted of or placed on deferred adjudication for anything other than a fine-only traffic offense.

Courts miss this step. The automatic order is supposed to issue on its own, but in the real world it sometimes never gets entered, especially in older cases. If you completed a qualifying misdemeanor deferred and never received a nondisclosure order, the court can still be asked to issue it now. Checking whether your order actually exists takes one records search, and it is one of the first things we look for in a record review.

Section 411.0725: the petition path for everyone else on deferred

Deferred adjudication cases that do not fit the automatic path, other than DWI and BWI, seal by petition under Section 411.0725. Two features make this the workhorse of the subchapter. First, it covers **felony deferreds**, the only route in the entire subchapter that can seal a felony. Second, it has no first-offense requirement: prior history does not disqualify you here. Instead the court weighs whether sealing is in the best interest of justice, and the universal conditions of Section 411.074 still apply.

The waiting periods, measured from the discharge and dismissal: none for most misdemeanors, two years for misdemeanors under Chapters 20, 21, 22, 25, 42, 43, or 46, and five years for felonies.

The DWI family: three paths, three chapters

Intoxication cases got their own sealing architecture in 2017 and 2019, and it is strict enough to deserve the two chapters that follow. The short map:

- **Section 411.0726:** first-offense DWI or BWI misdemeanor resolved by **deferred adjudication**. Petition on or after the second anniversary of completing the deferred and the discharge and dismissal.
- **Section 411.0731:** first-offense DWI **conviction with probation** completed. Two years with a six-month interlock history, five years without.
- **Section 411.0736:** first-offense DWI **conviction with the sentence served**. Three years with the interlock history, five without.

A note on the DWI deferred itself, because it feeds this system. Since September 1, 2019, a first DWI can receive deferred adjudication, but only if the alcohol concentration was under 0.15 and you did not hold a commercial driver's license or learner's permit. And a DWI deferred carries a statutory sting: under Penal Code Section 49.09(g), it counts as a prior conviction for enhancing any later DWI, no matter how many years pass. Sealed or not, the State can see it and use it for that purpose.

The conviction paths for ordinary misdemeanors

Two more sections complete the map, and they are the least known parts of the whole subchapter. A **first-offense misdemeanor conviction** can be sealed even though it is a conviction. Section 411.073 covers convictions that ended in completed probation, and Section 411.0735 covers convictions where the sentence was served, including jail time or a fine. Both exclude the intoxicated-operation offenses, driving, boating, or flying while intoxicated and minor DUI among them (for DWI, the DWI sections are the only route), and Chapter 71 organized-crime offenses, both are strictly first-offense-only, and both require full completion of the sentence including fines, costs, and restitution. Waiting periods: under 411.073, none for most misdemeanors and two years for the Chapter 20 through 46 categories; under 411.0735, none for fine-only misdemeanors and two years after completing the sentence for the rest. On the sentence-served path the court also may not seal an offense it finds was violent or sexual in nature, other than simple assault under Penal Code Section 22.01.

Special routes exist beyond the map: veterans treatment court completions (Section 411.0727), the veterans reemployment program (Section 411.0729), and victims of human trafficking who were prosecuted for certain listed offenses committed solely because of the trafficking (Section 411.0728). If one of those describes you, the analysis changes, usually in your favor, and it is worth a specific conversation.

Every path on this map, automatic or petitioned, runs through the universal conditions of Section 411.074: stay clean through the sentence and the waiting period, and carry none of the permanent disqualifiers. Those get their own chapter.

The DWI Gates: Three Questions That Decide Everything

Every DWI sealing path in Texas, all three of them, runs through the same three gates. Miss any gate and the path closes, no matter how long ago the case ended and no matter how clean you have been since. If you take nothing else from this book, take these three questions.

Gate one: is this your only offense?

Sections 411.0726, 411.0731, and 411.0736 all require that you have **never** been previously convicted of, or placed on deferred adjudication for, any other offense. The only exception is a traffic offense punishable by fine only. Not just no other DWI: no other anything. An old theft deferred from college counts against you. A twenty-year-old marijuana conviction counts against you. This is the strictest first-offense rule in the subchapter, and it is why the record review has to sweep your whole history, not just the DWI.

Notice what the rule implies for a second DWI: there is no path. A person with a prior cannot seal the new case, and the new conviction is itself unsealable. The DWI sealing system exists for one population: people whose single brush with the criminal system was a first, low-test, no-injury DWI.

Gate two: was the alcohol concentration under 0.15?

Both conviction paths exclude a DWI punishable under Penal Code Section 49.04(d), the Class A enhancement for an alcohol concentration of 0.15 or more. Plead to the high-test charge and the conviction is permanently outside 411.0731 and 411.0736. The 0.15 gate also operates earlier in the case: Article 42A.102(b) makes deferred adjudication unavailable for a DWI with a 0.15 result or a commercial license, so the deferred path was never open to those cases either.

Understand what this means at plea time. The difference between a judgment that recites the 0.15 enhancement and one that does not is the difference between a sealable record and a permanent one. Whether the State can actually prove the 0.15, and whether the enhancement stays in the judgment, are negotiable questions in many cases. They should be negotiated by someone who is thinking about this chapter.

Gate three: was there a collision involving another person?

All three DWI paths contain the same bar: the court may not seal the case if the State presents evidence sufficient to show the offense resulted in a motor vehicle collision **involving another person**, and the statute spells out that a passenger in your own vehicle counts. A single-car accident with you alone in the car does not trigger the bar. Your best friend in the passenger seat does.

Note where the burden sits: the statute requires the State to present the evidence. If the crash facts are ambiguous, whether anyone else was actually involved within the meaning of the statute is a fact question worth litigating, not a reason to give up before filing. Pull the crash report before you conclude anything.

The gates at a glance

Gate	The rule	Where it comes from
First offense only	No prior conviction or deferred for anything except fine-only traffic offenses	Sections 411.0726(b), 411.0731(b), 411.0736(b)
BAC under 0.15	Convictions punishable under Section 49.04(d) are excluded; a 0.15 result or CDL also blocked deferred up front	Sections 411.0731(a), 411.0736(a); Article 42A.102(b)
No collision involving another person	No sealing if the State shows a crash involving anyone else, including your own passenger	Sections 411.0726(e), 411.0731(e), 411.0736(e)

One more boundary on the whole system: these are misdemeanor paths. Felony intoxication outcomes, a third DWI, a child-passenger case, intoxication assault, intoxication manslaughter, have no sealing route at all, whether they ended in conviction or deferred. And boating while intoxicated is covered only on the deferred path; a BWI conviction has no sealing route, because the conviction sections cover Section 49.04 driving cases only.

The Interlock Accelerator, and Why the Deferred Path Has No Fast Lane

Once through the gates, the only remaining question is time. And on the two conviction paths, the legislature built in an accelerator that cuts years off the wait: the ignition interlock device.

How the accelerator works

The rule comes from the 2017 second-chance legislation, and it is mechanical. On the probation path, Section 411.0731(f), the wait is **two years** from completing probation if, for at least six months, you complied with a condition restricting you to a vehicle equipped with an ignition interlock. If no such six-month condition was ordered, the wait is **five years**. On the sentence-served path, Section 411.0736(f), the same split appears: **three years** with the six-month interlock history, **five years** without.

How the DWI ended	Statute	With 6+ months of interlock	Without	Clock starts
Deferred adjudication, discharged and dismissed	411.0726	2 years (flat)	2 years (flat)	Completion of the deferred and the discharge and dismissal
Conviction, probation completed	411.0731	2 years	5 years	Completion of the community supervision
Conviction, sentence served	411.0736	3 years	5 years	Completion of the sentence, including fines, costs, and restitution

The logic is straightforward. The interlock produces months of machine-verified evidence that you drove sober, and the legislature decided that record earns an earlier second chance. Which leads to a practical point almost nobody hears at sentencing: **an interlock condition can be an asset**. People negotiate hard to avoid the device, understandably, and sometimes succeed, and in doing so they unknowingly trade two years of waiting for five. If a DWI conviction is coming and sealing matters to you, six documented months on an interlock is one of the best investments available. The condition must actually appear in the court's orders and run at least six months, so this is something your lawyer builds into the sentence on purpose, not something you improvise later.

Why the deferred path has no fast lane

Look back at the table: Section 411.0726 has no interlock split. The deferred path is a flat two years, with or without the device. People sometimes read this as an oversight or an unfairness. It is neither, and the explanation is worth understanding because it shows how the pieces fit.

The deferred wait is already set at the accelerated number. Two years is the fastest wait anywhere in the DWI sealing system, and the deferred path gives it to everyone who qualifies. There is nothing left to accelerate. And the interlock is baked into the deferred itself: under Article 42A.408, a judge granting deferred adjudication for DWI is required to order an interlock as a condition of supervision unless the court, based on an alcohol and drug evaluation, finds on the record that the device is not necessary for the safety of the community. The legislature did not need to reward interlock use on a path where the interlock is the default condition and the wait is already the minimum.

Keep your interlock records. Whichever path you are on, the installation records, monitoring reports, and removal paperwork from the interlock vendor are the proof that the six-month condition existed and was met. Vendors purge old accounts, and probation files get archived. If a sealing petition is anywhere in your future, ask the vendor for a complete records copy the day the device comes off, and keep it with your court paperwork.

If you are unsure whether your probation included a qualifying interlock condition, do not guess and do not assume the five-year track. The condition appears in the court's orders and the probation department's records, and finding it is exactly the kind of detail a record review exists to check. We have seen the difference between two years and five turn on one page of paperwork.

What a Sealed Record Still Shows, and to Whom

Honesty about the limits of nondisclosure will save you from painful surprises, so this chapter is blunt. A sealed record disappears from public view. It does not disappear.

Who still sees a sealed record

First, the entire criminal justice system: police, prosecutors, courts, jails, and probation and parole authorities all retain full access, and they may use the record for criminal justice purposes. If you are ever charged with something new, Section 411.0775 expressly allows a sealed conviction to be admitted in the later case and disclosed to the prosecutor. A sealed DWI deferred still enhances a later DWI, no matter how many years pass. Sealing changes what the public sees, never what the State knows.

Second, a statutory list of agencies and entity types, set out in Section 411.0765, can still receive the record for licensing and vetting purposes. The list is long, more than two dozen entries, and it clusters around professions of trust. A representative sample:

- The State Board for Educator Certification, school districts, charter and private schools, and the Texas Education Agency
- The Texas Medical Board, the Texas Board of Nursing, and public and nonprofit hospitals
- The Board of Law Examiners and the State Bar of Texas
- The Department of Family and Protective Services and the Health and Human Services Commission
- Fire departments, including volunteer departments
- The banking, securities, credit union, and consumer credit commissioners, and the public accountancy board
- The Texas Department of Licensing and Regulation and the Judicial Branch Certification Commission

The practical translation: if you are applying to be a teacher, nurse, doctor, lawyer, CPA, firefighter, peace officer, childcare worker, or licensee of a listed agency, assume the sealed record will be visible to the licensing authority and answer their questions accordingly. Lying to an entity that can see the record is a catastrophically bad idea; a sealed case explained honestly is routinely survivable, while a concealment discovered later often is not.

The federal boundary

A Texas nondisclosure order binds Texas. It does not bind the federal government. Federal agencies, security clearance investigators, and immigration authorities operate under federal law and may see and consider the underlying events. Immigration deserves its own caution: federal immigration law can treat a deferred adjudication as a conviction regardless of the Texas dismissal, and sealing does not change that analysis. If you are not a citizen, get immigration-specific advice before assuming any of this chapter helps you.

What actually changes for you

Everything else. Once the order issues, the clerk sends it to the DPS Crime Records Service, DPS seals its own records, and notice goes out to the courts, agencies, and, critically, the **private background check companies** that purchase criminal history data from the state. Those companies are obligated to stop reporting the sealed case. Employers, landlords, apartment screeners, and the general public lose access, and under Section 411.0755 you are not required to disclose the sealed proceeding on applications for employment, information, or licensing.

> **The stale database problem.** Private data brokers copy records from each other, and a company that bought your record years ago may keep reporting it after sealing, unlawfully. If a sealed case surfaces on a background check, do not shrug. Dispute it with the background company and demand removal. A copy of your nondisclosure order is the tool; keep certified copies where you can find them. The same applies after an expunction, where continued reporting violates a court order.

One last comparison to keep the two tools straight. After an expunction, you may deny the arrest ever happened, to anyone, with the single under-oath exception. After a nondisclosure, your legal cover extends to applications for employment, information, and licensing, but the record remains visible to the listed entities, and candor to those entities remains the only safe policy.

What Can Never Be Cleared: The 411.074 Wall and the Other Dead Ends

Some records cannot be sealed, ever, and some situations block sealing across the board. Better to learn it from a book than from a denied petition. This chapter collects the dead ends in one place.

The permanent disqualifiers of Section 411.074

Section 411.074(b) is a wall in front of every nondisclosure path, automatic and petitioned alike. No order may issue, for any case, if the case you want sealed is one of the listed offenses **or** if you have ever been convicted of or placed on deferred adjudication for one. The list:

- Any offense requiring registration as a sex offender under Chapter 62 of the Code of Criminal Procedure
- Aggravated kidnapping (Penal Code Section 20.04), whether or not registration was required
- Murder (Section 19.02) and capital murder (Section 19.03)
- Trafficking of persons (Section 20A.02) and continuous trafficking (Section 20A.03)
- Injury to a child, elderly individual, or disabled individual (Section 22.04)
- Abandoning or endangering a child (Section 22.041)
- Violation of a protective order or magistrate's order (Section 25.07), and repeated violations (Section 25.072)
- Stalking (Section 42.072)
- Any other offense involving family violence as defined by Section 71.004 of the Family Code

Two features of the wall deserve emphasis. The disqualifier does not have to be the case you are trying to seal; an offense on this list **anywhere in your history** closes every sealing path for every case. And family violence reaches further than the list makes it look: under Section 411.074(b)(2), an affirmative finding of family violence in the case itself is an independent bar, which is one more reason the wording of a judgment matters at plea time. An assault plea with a family violence finding is permanently unsealable; the same conduct resolved without the finding may not be.

The clean-record condition

Section 411.074(a) adds a conduct requirement that trips people at the finish line. From the day of sentencing or placement on supervision, through the end of the sentence, and through the entire waiting period, you must not be convicted of or placed on deferred adjudication for anything other than a fine-only traffic offense. A new Class B misdemeanor in year four of a five-year DWI wait does not just pause the clock. It defeats the petition. If you are inside a waiting period now, the single most valuable thing you can do for your record is stay out of trouble until it ends.

The other dead ends, gathered in one list

- **Felony convictions.** No nondisclosure section covers them. A felony conviction can be addressed only by pardon or by post-conviction relief that changes the conviction itself. A felony **deferred**, by contrast, can be sealed under Section 411.0725 after five years.
- **Felony intoxication outcomes.** Intoxication assault, intoxication manslaughter, third-offense DWI, child-passenger DWI, and the school-crossing-zone felony DWI created in 2025 have no sealing path in any posture.
- **DWI convictions with a 0.15 judgment.** Excluded from both conviction paths, permanently.
- **Intoxicated-operation convictions other than DWI.** The general misdemeanor sections exclude the intoxicated-operation offenses and minor DUI, and the DWI sections cover Section 49.04 only, so a BWI, flying while intoxicated, or minor DUI conviction has no conviction-sealing route.
- **Second offenses.** The DWI paths and the misdemeanor conviction paths are first-offense-only. A prior conviction or deferred for anything beyond a fine-only traffic offense closes them.
- **Organized criminal activity.** Chapter 71 convictions are excluded from the misdemeanor conviction paths, and Chapter 71 misdemeanor deferreds are excluded from the automatic path.
- **DWI collision cases.** If the State shows a collision involving another person, all three DWI paths close.

> **The wall blocks sealing, not expunction.** Section 411.074 lives in the nondisclosure subchapter, and its bars apply to sealing only. If a different arrest in your history ended in acquittal or dismissal, that arrest may still be fully expungeable under Chapter 55A even though your sealing paths are closed. People with a disqualifier on their record too often assume nothing can be done about anything. Check each arrest separately; the two tools run on separate rules.

If you found yourself on this chapter's lists, one honest word. These bars are statutory, and no lawyer can file around them. But eligibility law has changed repeatedly, in 2015, 2017, 2019, and

2025, almost always in the direction of more relief, and a record review costs you nothing. The worst outcome is confirmation of what you already knew. The best is learning the bar you assumed applies to you actually does not.

The Petition Process, the Costs, and the Realistic Timeline

The law is the hard part; the process is just work. This chapter walks through what filing actually looks like, what it costs, and how long it takes, so the timeline surprises you in neither direction.

The expunction petition

An expunction begins with a verified ex parte petition filed in a district court of the county where you were arrested or where the offense allegedly occurred. For fine-only offenses, the petition can go to a justice court or a municipal court of record instead. The statute, Article 55A.253, prescribes the contents, and the list explains why preparation is most of the labor: your identifying information as it appeared at booking, the offense charged, the date of the alleged offense, the date of arrest, the county and agency of arrest, the cause number and court, and, critically, a list of **every** agency and entity believed to hold the records: police departments, sheriffs, jails, magistrates, courts, prosecutors, DPS, federal depositories, and the private companies that resell criminal history data.

That agency list is where expunctions are won or quietly lost. Any agency left off the petition is an agency the order does not clearly reach, which means a record that can survive. Sweeping the full data trail of an arrest is exactly the kind of tedious, high-stakes checklist work you want done by someone who does it routinely.

After filing, the court sets a hearing no earlier than 30 days out and notifies every listed agency, each of which may respond or protest. Most expunctions that are properly screened draw no opposition and no live testimony; many courts decide them on the paperwork. If the order is granted, it must contain the statutory contents, and each listed entity must then return or destroy its records, with DPS handling notice to the federal depositories and the private data buyers.

The nondisclosure petition

Sealing is procedurally simpler because it goes home: you file in the court that handled the original case. On the automatic path there is no petition at all, just the $28 fee. On the petition paths, you file with evidence of eligibility, the State gets notice and 45 days to request a hearing, and if no hearing is requested and the court finds you eligible and sealing in the best interest of justice, it can rule without one. The best-interest finding is a real element, not boilerplate: the court has discretion, and a clean, well-documented petition that tells the story of the years since the case is more than decoration.

After the order issues, the machinery is fast by statute: the clerk sends the order to the DPS Crime Records Service within 15 business days, DPS seals its records within 10 business days of receipt and sends the order onward, and the downstream agencies must seal within 30 business days of receiving it.

What it costs

Item	Typical cost
Expunction filing fee, district court	The county's civil ex parte filing fee, commonly a few hundred dollars, plus certified-mail notice costs for each listed agency
Expunction filing fee, justice or municipal court (fine-only offenses)	$100 by statute
Acquittal expunction filed within 30 days	Filing fees generally waived; treatment-court dismissals also carry a fee waiver
Automatic nondisclosure under 411.072	$28 to the clerk
Nondisclosure petition	The county's standard civil filing fee, typically a few hundred dollars
Attorney fees	Vary by firm and complexity; see the note below about ours

Exact figures vary by county because civil filing fees are set locally. And a note on our own pricing, stated once and plainly: when Lance Kennedy Law resolves your criminal case and you qualify for an expunction afterward, we file it at **no additional attorney fee**. You pay only the court filing costs.

The realistic timeline

Add the statutory minimums to real-world court calendars and agency processing, and honest expectations look like this. An uncontested expunction commonly runs **two to six months** from filing to a signed order, driven mostly by the 30-day minimum hearing setting and the local docket, with agency compliance following over the weeks after. A nondisclosure petition commonly runs **one to four months**, driven by the State's 45-day window and the court's schedule. Background check databases catch up on their own cycles, so allow an additional month or two before assuming every private database reflects the order, and run a check on yourself before any high-stakes application.

None of those numbers is a promise; counties differ, dockets differ, and a protested petition takes longer. But if someone quotes you a week, be skeptical, and if you have been waiting a year with no explanation, ask questions.

Questions people ask about the process

Will I have to appear in court? Often no. Many courts decide unopposed expunctions and nondisclosure petitions on the paperwork, and on the sealing side the statute lets the court rule without any hearing if the State does not request one within its 45-day window and the court finds you eligible. Whether a personal appearance is needed depends on the court and on whether anyone protests, so plan for the possibility and be pleasantly surprised.

What if an agency or the State objects? Then the court hears the dispute and rules. Objections usually target a real legal question, an unexpired limitations period, a disputed dismissal ground, a criminal episode issue, which is precisely why a petition should be screened against every requirement before it is filed. A properly screened petition rarely draws a fight, and if yours does, the objection tells your lawyer exactly what to litigate.

What about the mugshot websites? Texas law reaches them. Business entities that publish criminal record information for profit may not continue publishing a record they know is subject to an expunction or nondisclosure order, may not charge you a fee to remove or correct it, and face civil liability if they refuse after notice. In practice, a written demand enclosing the order resolves most of these, and the ones that ignore it are handing you a claim.

Do I file once, or for each case? Each arrest is analyzed and cleared separately. One person can hold an expunction for a dismissed 2019 arrest and a nondisclosure for a 2021 deferred at the same time; the tools coexist. A full record review sweeps everything on your history at once so nothing gets left standing by accident, but expect separate orders for separate events.

How will I know it worked? You will receive the signed order, and you should keep certified copies permanently, ideally in more than one place. A month or two after the order, run a background check on yourself through a mainstream provider. If anything still surfaces that the order covers, that is a compliance problem to enforce, not a reason to doubt the order.

What to gather before the review. You can cut weeks off the process by collecting: photo ID, your name and date of birth exactly as booked, the arrest date, agency, and county, the court and cause number, the charging document if one was filed, the final disposition papers for every charge from the arrest, and, for DWI cases, the blood or breath result and your interlock records. If you have a DPS criminal history printout or the tracking incident number from the arrest, bring that too. Missing pieces are findable; we routinely reconstruct old cases from a name and a county.

Reading the Chart Backwards: Strategy Starts at the Case Review

Everything in this book so far reads forward: the case ended a certain way, so the record can be cleared a certain way. This final chapter reads the chart backwards, because that is how a good defense lawyer actually uses it. The disposition you accept today is not just the end of a case. It is the purchase of a particular future for your record, and the differences between futures are enormous.

The chart, read backwards

If the case ends in...	Your record's future
Acquittal at trial	Expunction, entitled, orderable by the trial court within 30 days
Dismissal without a plea (no probable cause, void charge, or a completed program)	Expunction with no waiting period
Never charged, or no-billed	Expunction after 180 days to 3 years, sooner with the State's certification
Class C deferred, dismissed	Expunction after 180 days from arrest
Misdemeanor deferred, first offense, outside the excluded chapters	Automatic sealing at discharge and dismissal
Misdemeanor deferred, excluded chapters	Sealing by petition, generally after 2 years
Felony deferred	Sealing by petition after 5 years, the only felony path
First DWI deferred (under 0.15, no collision with another person)	Sealing by petition after a flat 2 years
First DWI conviction, probation, 6+ months interlock	Sealing after 2 years
First DWI conviction, no interlock condition	Sealing after 5 years
First misdemeanor conviction, non-DWI, outside excluded categories	Sealing by petition, no wait to 2 years
Felony conviction; 0.15 DWI judgment; collision involving another person; second offense; a 411.074 offense or finding	No clearing path; pardon or post-conviction relief only

Now read it the way a negotiator reads it. A dismissal is worth more than almost any plea, even a generous one, because a dismissal preserves destruction. A deferred is worth more than a conviction, because it preserves sealing, and above Class C it is the difference between a two-to-five-year sealing path and, for a felony, the only path there is. A conviction with a six-month interlock condition is worth years more than the identical conviction without one. A judgment that omits the 0.15 enhancement is worth infinitely more than one that recites it, because one is sealable and the other never will be. A charge resolved without a family violence finding preserves a future that the same charge with the finding destroys permanently. And a Class C deferred, the humblest disposition in Texas law, quietly preserves full expunction.

None of that appears in a plea offer's bottom line. Two offers can carry the same fine, the same probation length, the same classes, and lead to opposite record futures. The offer that looks slightly worse today is sometimes the one that lets you answer no, truthfully, on every job application for the rest of your life. You cannot evaluate a plea without this chart, and most people standing in a courtroom hallway have never seen it.

What this means before the case ends

If your case is still open, record strategy belongs in the defense strategy, starting at the first case review. Concretely, that means your lawyer should be able to tell you, for every realistic disposition on the table: which clearing tool it preserves, what the waiting period would be, which gates apply, and what wording needs to appear, or not appear, in the dismissal motion or the judgment. It means fighting for the dismissal where the evidence is weak, because destruction beats concealment. It means structuring the deferred, the interlock condition, and the findings deliberately where a resolution is the right call. Ask any lawyer you interview how the offer on the table affects your record in five years. The quality of the answer will tell you a great deal.

What this means if your case is already over

Read the chart, find your row, and do not self-reject. The most common record-clearing mistake in Texas is not filing a doomed petition; it is assuming for years that nothing can be done when something can. People assume a dismissal cleared itself: it did not, and the arrest is still public. People assume a deferred cannot be touched: it usually can. People assume an old conviction is permanent: sometimes it is, and sometimes it sits squarely inside a sealing path built in 2017 that nobody told them about. People assume the automatic order was entered in their old case: courts miss them. The chart is the law, but your judgment, your dismissal motion, and your complete history decide which row is truly yours, and that takes a records pull and a trained read.

That is what we do. Lance Kennedy Law reviews records, screens every arrest against every path in this book, and files what the law supports. When we resolve your criminal case and you qualify afterward, the expunction filing itself comes at no additional attorney fee beyond the court's filing costs, because in our view clearing the record is not an upsell. It is the last step of the defense. The case review is free, the number is (737) 324-7540, and the worst thing a review can tell you is what you already assumed. The best thing it can tell you is that the record you have been living around for years is erasable, and always was.

One page to keep. If you remember nothing else: dismissals and acquittals can usually be destroyed. Deferreds can usually be sealed, sometimes automatically. Some first convictions, including some first DWIs, can be sealed too, and an interlock history speeds that up. Family violence findings, 0.15 judgments, collisions involving another person, and the 411.074 list close doors permanently, which is why record strategy starts before the plea, not after it. And nothing clears itself. Every clean record you have ever envied was either lucky or filed for.