

Cause No. \_\_\_\_\_  
(1)

In the Matter of

§

In the

§

\_\_\_\_\_  
(2)

§

\_\_\_\_\_ County, Texas

\_\_\_\_\_  
(3)

(4)

## **Petition for Order of Nondisclosure** **Under Section 411.0725**

\_\_\_\_\_ (5) ("Petitioner") respectfully petitions this court for an Order of Nondisclosure regarding the offense detailed in the following paragraph. This petition is filed pursuant to Section 411.0725, Government Code.

### **1. The Underlying Order and Order of Dismissal and Discharge**

Petitioner was convicted in this court of the offense of (6) \_\_\_\_\_,  
(7) a misdemeanor / felony in Criminal Cause No. (8) \_\_\_\_\_.

Petitioner was placed on deferred adjudication community supervision (hereinafter "deferred adjudication") under Section 5, Article 42.12, Code of Criminal Procedure (effective January 1, 2017, under Article 42A.101). The term of Petitioner's deferred adjudication began on (9) \_\_\_\_\_ and ended on (10) \_\_\_\_\_. A copy of the court's order or judgment placing Petitioner on deferred adjudication (11) **is / is not** attached to this petition.

The court did not proceed to an adjudication of guilt. Instead, the court discharged Petitioner and dismissed the proceedings against Petitioner. A copy of the court's Order

of Discharge and Dismissal (12) **is / is not** attached to this petition. The date of the discharge and dismissal order is \_\_\_\_\_. (13)

## **2. Petitioner Satisfies the Requirements of Gov't Code Section 411.0725**

Petitioner satisfies the requirement that a petitioner **not be eligible** for an automatic order of nondisclosure under Sec. 411.072 because (check all that apply): (14)

A. The misdemeanor offense for which Petitioner is requesting an order of nondisclosure falls under one of the following chapters of the Penal Code:

- 20 (kidnapping, unlawful restraint, smuggling of persons),
- 21 (sexual offenses),
- 22 (assaultive offenses),
- 25 (offenses against the family),
- 42 (disorderly conduct and related offenses),
- 43 (public indecency offenses),
- 46 (weapons offenses), or
- 71 (organized crime offenses).

B. In the case that Petitioner is requesting an order of nondisclosure, this court filed an affirmative finding that it is not in the best interest of justice for Petitioner to receive an automatic order of nondisclosure under Sec. 411.072, Government Code.

C. The offense for which Petitioner is requesting an order of nondisclosure is a felony.

D. Petitioner has previously been convicted of or placed on deferred adjudication for another offense other than an offense under the Transportation Code punishable by fine only. (A list of offenses of which Petitioner has been previously convicted or placed on deferred adjudication and the dates **is / is not** attached to the petition.)

Petitioner has met the waiting period requirement of Section 411.0725(e) as indicated below (check one): **(15)**

on or after the fifth anniversary of the discharge and dismissal (Petitioner's offense was a felony); or

on or after the second anniversary of the discharge and dismissal (Petitioner's offense was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code); or

on or after the discharge and dismissal (Petitioner's offense was a misdemeanor which was **not** under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code).

### **3. Petitioner Satisfies the Requirements of Gov't Code Section 411.074**

Petitioner satisfies the requirements of Section 411.074, Government Code, in that during the period after the court placed Petitioner on deferred adjudication for the offense for which the order of nondisclosure is requested, and during any applicable waiting period (described in Section 2 above) after completion of Petitioner's deferred adjudication, Petitioner was not convicted of or placed on deferred adjudication under Section 5, Article 42.12, Code of Criminal Procedure (effective January 1, 2017, under Article 42A.101), for any offense other than an offense under the Transportation Code punishable by fine only.

Further, Petitioner was not convicted of or placed on deferred adjudication for and has never been previously convicted of or placed on any other deferred adjudication for any of the following:

- (A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
- (B) an offense under Texas Penal Code Section 20.04 (aggravated kidnapping);
- (C) an offense under any of the following Texas Penal Code Sections:

- 19.02 (murder);
  - 19.03 (capital murder);
  - 20A.02 (trafficking of persons);
  - 20A.03 (continuous trafficking of persons);
  - 22.04 (injury to a child, elderly individual, or disabled individual);
  - 22.041 (abandoning or endangering a child);
  - 25.07 (violation of court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case);
  - 25.072 (repeated violation of certain court orders or conditions of bond in family violence, sexual assault or abuse, stalking, or trafficking case); or
  - 42.072 (stalking); or
- (D) any other offense involving family violence, as defined by Section 71.004, Family Code.

Additionally, the court did not make an affirmative finding that the offense for which Petitioner is requesting an order of nondisclosure involved family violence, as defined by Section 71.004, Family Code.

#### **4. Petitioner is Entitled to File a Petition for an Order of Nondisclosure**

Petitioner is entitled to file this petition because Petitioner has satisfied each of the requirements necessary to be so entitled. A person is entitled to file a petition for an order of nondisclosure under Sec. 411.0725, Government Code, if the person:

- was placed on deferred adjudication for a misdemeanor or felony offense;
  - received a discharge and dismissal of the proceedings against him or her;
- and

- has met the requirements of Sections 411.0725 and 411.074, Government Code, including: not being eligible for an order of nondisclosure under Sec. 411.072; waiting the requisite amount of time to file a petition for an order of nondisclosure; never having been convicted of or placed on deferred adjudication for an offense listed under Sec. 411.074(b), Government Code; no affirmative finding by the court that the offense for which Petitioner is requesting an order of nondisclosure involved family violence as defined by Sec. 71.004, of the Family Code; and during the period after the court pronounced the sentence and during any applicable waiting period, Petitioner was not convicted of or placed on deferred adjudication for any offense other than an offense under the Transportation Code punishable by fine only.

## **5. Issuance of an Order of Nondisclosure is in the Best Interest of Justice**

The issuance of an Order of Nondisclosure in this case would be in the best interest of justice.

## **6. The Fee to File the Petition has been Paid or Otherwise Satisfied**

The fee to file this petition is the total amount of the fee required to file a civil petition and \$28.00, or a petitioner may submit a *Statement of Inability to Afford Payment of Court Costs* in lieu of paying the filing fee. Petitioner has included: (16)

the required filing fee; or

a *Statement of Inability to Afford Payment of Court Costs* in lieu of the required filing fee.

## **7. Prayer for Relief**

Petitioner prays that after notice to the state, an opportunity for a hearing, and a determination by the court that Petitioner is entitled to file this petition and issuance of an order of nondisclosure is in the best interest of justice, the court will grant Petitioner's request for an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense specified in this petition.

Respectfully submitted,

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(17)

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(18)

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(19)

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(20)

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(21)