



Office of Court Administration

**Instructions for Completing the Model
Petition for Order of Nondisclosure**

- (1) Please leave this blank. This number is not the number of your criminal case. A new civil case is created by filing this petition. This new case will be assigned a new cause number by the clerk of the court when the clerk receives your petition. The clerk will enter the new cause number in this space.
- (2) Please enter the name of the court in which you are filing this petition. You must file this petition in the court that placed you on deferred adjudication. The name of the court is shown on the top of your order of deferred adjudication.
- (3) Please enter your name as shown in your order of deferred adjudication.
- (4) Please enter the name of the county in which the court is situated. This will be the same county as shown on your order of deferred adjudication.
- (5) Please enter your name as you did in (3) above.
- (6) Please enter either “guilty” or “nolo contendere” as shown on your order of deferred adjudication under Plea to Offense.
- (7) Please enter the offense shown on your order of deferred adjudication under Offense.
- (8) Please enter the word “is” if you are attaching your order of deferred adjudication. Please enter the words “is not” if you are not attaching your order of deferred adjudication.
- (9) Please enter the date shown under Date Order Entered on your order of deferred adjudication.
- (10) Please enter a date here that is calculated by starting with the date in (9) above. Add the Period of Supervision as shown on your order of deferred adjudication to the date shown in (9). Then subtract one day. This is the date to enter.

For example, if your starting date (shown in (9) above) is January 1, 2010 and the period of supervision is 3 years, then add 3 years to the January 1, 2010 date. This gives you a date of January 1, 2013. Subtract one day. This gives you a date of December 31, 2012. This would be the date to enter.

- (11) Please enter the word “is” if you are attaching your order of dismissal and discharge. Please enter the words “is not” if you are not attaching your order of dismissal and discharge.
- (12) Please enter the date shown on your order of dismissal and discharge.
- (13) Please enter the Statute for Offense as shown on your order of deferred adjudication.
- (14) Please enter the word “not” unless the statute you listed in (13) is Section 19.02, 19.03, 20.04, 22.04, 22.041, 25.07 or 42.072 of the Texas Penal Code. If the statute you listed in (13) is one of the foregoing statutes, you are not entitled to file a petition for order of nondisclosure.
- (15) Please enter the word “not” unless the offense for which you were placed on deferred adjudication required you to register as a sex offender. Your order of deferred adjudication will show whether sex offender registration requirements do or do not apply to you. If sex offender registration requirements apply to you, then you are not entitled to file a petition for an order of nondisclosure.
- (16) Please enter the word “not” unless the offense for which you were placed on deferred adjudication involved family violence. You can tell whether the offense involved family violence by looking at your order of deferred adjudication. If the offense involved family violence, there will be a special order on your order of deferred adjudication saying so. This special order would be set out just above the judge’s signature. If the offense involved family violence, then you are not entitled to file a petition for an order of nondisclosure.
- (17) Please enter the word “never” unless you have previously been convicted of (or placed on deferred adjudication for) an offense:

- (a) under Section 19.02, 19.03, 20.04, 22.04, 22.041, 25.07 or 42.072 of the Texas Penal Code;
- (b) requiring registration as a sex offender; or
- (c) involving family violence.

(18) Please look at the section of your order of deferred adjudication entitled Degree of Offense. If the degree of offense is listed as a felony, then enter the word “felony.” If the degree of offense is listed as a misdemeanor, then look at the statute you listed in (13) above. Is the listed statute found in Chapter 20, 21, 22, 25, 42, or 46 of the Penal Code? If so, then enter “misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code.” If not, then enter “misdemeanor other than a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code.”

Please note: The number of a statute consists of a chapter reference and a section reference. So a statute such as Penal Code, Section 20.03 refers to Chapter 20 and Section 3 within that chapter. If this were the statute you listed in (13) above, then this would be a misdemeanor under Chapter 20 of the Penal Code. Please be aware that not all violations of the law are found in the Penal Code. Some violations are found in other codes such as the Agriculture Code or the Transportation Code.

(19) If your response in (18) is “felony,” then please enter “the fifth anniversary of the.” If your response is “misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code,” then enter “the second anniversary of the.” If your response is “misdemeanor other than a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code,” then enter the word “the.”

(20) Please enter the date calculated by adding your entry in (19) to the date of your order of dismissal and discharge.

For example, assume you entered “the second anniversary of” in (19) and the date of your order of dismissal and discharge is March 1, 2008. You would then enter March 1, 2010. As a further example, suppose you entered “the” in

(19) and the date of your order of dismissal and discharge is March 1, 2008. You would then enter March 1, 2008.

- (21) Please enter the same date you entered in (9) above.
- (22) Please enter the same date you entered in (20) above.
- (23) There is a filing fee associated with filing a petition for order of nondisclosure. The filing fee is the amount of the court's regular civil filing fee plus an additional \$28.00. Typically, the total filing fee is about \$280.00. But the amount varies from county to county. You may contact the clerk of the court in which you are filing this petition to learn the amount of the total filing fee.

As a general rule, you must pay the filing fee in order to file this petition. However, you may be eligible to file an affidavit of indigency in lieu of paying the filing fees. The affidavit of indigency is described in Texas Rule of Civil Procedure 145. You may view Rule 145 online at http://www.supreme.court.state.tx.us/rules/trcp/trcp_part_2.pdf. You can find a fill-in-the-blank affidavit-of-indigency form at: <http://www.courts.state.tx.us/jcit/Efiling/IndigencyForm.doc>.

Please enter "the required filing fee" if you will be paying the filing fee. If you are instead filing an affidavit of indigency, please enter "an affidavit of indigency in lieu of paying filing fees."

- (24) Please sign above the line. If you are filing this Petition electronically, you may enter "/s/" followed by your typewritten name.
- (25) Please enter your name.
- (26) Please enter your mailing address.
- (27) Please enter your city, state and zip code.
- (28) Please enter your telephone number.

Cause No. _____
(1)

In the Matter of § In the
§
_____ § _____
(3) (4) County, Texas

Petition for Order of Nondisclosure

_____ (“Petitioner”) respectfully petitions
(5)
this Court for an Order of Nondisclosure regarding the offense detailed in the following
paragraph. The petition is filed pursuant to Texas Government Code, Section
411.081.

1. The Underlying Order of Deferred Adjudication

Petitioner pleaded _____ in this Court to the offense of
(6)
_____. This Court
(7)
placed Petitioner on deferred adjudication community supervision pursuant to Texas
Code of Criminal Procedure, article 42.12, Section 5(a). A copy of this Court’s “Order of
Deferred Adjudication” _____ attached to this Petition. The term of Petitioner’s period of
(8)
deferred adjudication began on _____ and ended on
(9)
_____.
(10)

2. The Order of Dismissal and Discharge

This Court did not proceed to an adjudication of guilt. Accordingly, this Court
dismissed the proceedings against Petitioner and discharged Petitioner as required by

Texas Code of Criminal Procedure, article 42.12, Section 5(c). A copy of this Court's "Order of Dismissal and Discharge" _____ also attached to this Petition. The date of this Order is _____.

3. An Order of Nondisclosure may be Issued for this Type of Offense

As shown in the attached Order of Deferred Adjudication, the offense is:

- (1) a violation of _____;
- (2) _____ an offense under Texas Penal Code, Sections 19.02, 19.03, 20.04, 22.04, 22.041, 25.07, or 42.072;
- (3) _____ an offense requiring registration as a sex offender under Texas Code of Criminal Procedure, Chapter 62; and
- (4) _____ an offense involving family violence as defined by Texas Family Code, Section 71.004.

Accordingly, an Order of Nondisclosure may be issued for this type of offense.

See Texas Government Code, Section 411.081.

4. Petitioner has no Disqualifying Criminal History

Petitioner has _____ been convicted of, or placed on deferred adjudication for, any of the following offenses:

- (1) an offense under Texas Penal Code, Sections 19.02, 19.03, 20.04, 22.04, 22.041, 25.07, or 42.072;
- (2) an offense requiring registration as a sex offender under Texas Code of Criminal Procedure, Chapter 62; or

(3) an offense involving family violence as defined by Texas Family Code, Section 71.004.

Accordingly, Petitioner is not disqualified from filing this Petition because of Petitioner's criminal history.

5. Date Petitioner is First Eligible to File Petition

The offense is a _____.
(18)
Therefore, the earliest date Petitioner is eligible to file this Petition is _____ date of the Order of
(19)
Dismissal and Discharge. This "eligible-to-file" date is _____.
(20)

6. Petitioner has no Disqualifying Offenses during Relevant Time Period

Petitioner may file this Petition only if Petitioner was not convicted of, or placed on deferred adjudication for, "disqualifying" offenses during a "relevant" time period. The disqualifying offenses include all criminal offenses other than fine-only offenses under the Texas Transportation Code. The relevant time period begins on the date Petitioner was placed on deferred adjudication (_____), and ends on the eligible-to-file date, (_____) (21). Petitioner was not convicted of, or placed on deferred adjudication for, any specified offense during the relevant time period. (22)

7. 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 pursuant to Texas Government Code, Section 411.081(d), (e) if the person:

- (a) has been placed on deferred adjudication for a particular offense (*see* Paragraph 1 of this Petition);
- (b) subsequently receives a discharge and dismissal (*see* Paragraph 2 of this Petition);
- (c) was placed on deferred adjudication for an offense for which an order of nondisclosure may be issued (*see* Paragraph 3 of this Petition);
- (d) has no disqualifying offenses in his or her criminal history (*see* Paragraph 4 of this Petition);
- (e) has waited the requisite amount of time to file the Petition (*see* Paragraph 5 of this Petition); and
- (f) has not committed any disqualifying offenses between during a statutorily-specified relevant time period (*see* Paragraph 6 of this Petition).

8. 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.

9. The Fee to File the Petition has been Paid or Otherwise Satisfied

The fee to file this Petition is the total amount to file a general civil lawsuit in this Court plus an additional \$28.00. Petitioner has included

_____ with this Petition.

10. Prayer for Relief

Petitioner prays that this Court determine that Petitioner is entitled to file this Petition. Petitioner also prays that this Court determine that an Order of Nondisclosure is in the best interest of justice. Finally, Petitioner prays that upon making the two foregoing determinations, this Court issue an Order of Nondisclosure as required by Texas Government Code, Section 411.081(d).

Respectfully submitted,

(24)

(25)

(26)

(27)

(28)