

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

In the Matter of

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In the

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\_\_\_\_\_

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(2)

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

\_\_\_\_\_

(3)

(4)

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

\_\_\_\_\_ (5) (hereinafter "Petitioner") respectfully petitions this court for an order of nondisclosure under Section 411.0725, Government Code, for the offense detailed in the following paragraph.

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

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

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

The court did not proceed to an adjudication of guilt. Instead, the court discharged and dismissed the proceedings against Petitioner. A copy of the discharge and dismissal **is / is not** <sup>(12)</sup> attached to this petition. The discharge and dismissal occurred on

\_\_\_\_\_ <sup>(13)</sup>.

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

Petitioner satisfies the requirements of Section 411.0725, Government Code, in that Petitioner **is not eligible** for an automatic order of nondisclosure under Section 411.072 because (check all that apply): <sup>(14)</sup>

\_\_\_\_ A. The misdemeanor offense for which the order of nondisclosure is requested 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. The court found that it is not in the best interest of justice that Petitioner receive an automatic order of nondisclosure under Section 411.072 and filed a statement of that finding with the papers of Petitioner's case.

\_\_\_\_ C. The offense for which the order of nondisclosure is requested is a felony.

\_\_\_\_ D. Petitioner has been previously convicted of or placed on deferred adjudication for an offense other than a traffic offense punishable by fine only. (A list of offenses and dates of Petitioner's previous convictions and deferred adjudications **is/ is not** <sup>(15)</sup> attached to the petition.)

\_\_\_\_ E. Petitioner received a discharge and dismissal prior to September 1, 2017.

Petitioner also satisfies the requirements of Section 411.0725 in that Petitioner has received a discharge and dismissal for the offense for which the order of nondisclosure is requested.

Finally, Petitioner satisfies the requirements of Section 411.0725 in that Petitioner has waited the requisite time, as indicated below, before filing this petition.<sup>(16)</sup>

\_\_\_\_\_ On or after the fifth anniversary of the discharge and dismissal if Petitioner's offense is a felony

\_\_\_\_\_ On or after the second anniversary of the discharge and dismissal if Petitioner's offense is a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code)

\_\_\_\_\_ On or after the discharge and dismissal if Petitioner's offense is a misdemeanor other than a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46 of the Penal Code)

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

Petitioner satisfies the requirements of Section 411.074 of the Government Code because:

- During the period after the court placed Petitioner on deferred adjudication, and during any applicable waiting period following discharge and dismissal (see Section 2 above), Petitioner was not convicted of or placed on deferred adjudication for any offense other than a traffic offense punishable by fine only;

- Petitioner was not and has not ever been convicted of or placed on deferred adjudication for any of the offenses listed below:
  - (A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
  - (B) an offense under Section 20.04, Texas Penal Code (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; and
- The court has not made an affirmative finding that the offense for which the order of nondisclosure is requested involved family violence, as defined by Section 71.004, Family Code.

#### **4. Petitioner is Entitled to File a Petition for an Order of Nondisclosure Under Section 411.0725, Gov't Code**

A person is entitled to file a petition for an order of nondisclosure under Section 411.0725, Government Code, if the person:

- Was placed on deferred adjudication for a qualifying misdemeanor or felony offense;
- Is not eligible to receive an order of nondisclosure under Section 411.072, Government Code;
- Has received a discharge and dismissal from the court;
- Has waited the requisite time before filing a petition for an order of nondisclosure; and
- Has met the requirements of Section 411.074 of the Government Code.

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

The issuance of an order of nondisclosure is 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 <sup>(17)</sup>

\_\_\_\_\_ the required filing fee.

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

## 7. Prayer for Relief

Petitioner respectfully prays that the court grant Petitioner's request for an order of nondisclosure 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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