



Office of Court Administration

## Orders of Nondisclosure Overview

### What is an Order of Nondisclosure?

An order of nondisclosure is a court order prohibiting public entities such as courts and police departments from disclosing certain criminal records. If you have a criminal record, you may benefit from obtaining such an order.

An order of nondisclosure also legally frees you from disclosing information about your criminal history in response to questions on job applications. You do not need to mention information related to the offense that is the subject of an order of nondisclosure.

Please note that an order of nondisclosure applies to a particular criminal offense. The order does not apply to all offenses that may be on your criminal record, but you may obtain multiple orders of nondisclosure for multiple offenses.

As mentioned above, an order of nondisclosure directs entities holding information about a certain offense on your criminal record to not release that information. This is a general rule. There are exceptions. Certain state agencies are still entitled to obtain information concerning an offense that is the subject of an order of nondisclosure.

### Who is eligible for an Order of Nondisclosure?

Not all persons with criminal records are entitled to file a petition for an order of nondisclosure. You are entitled to file a petition only if six specified conditions are met. These conditions are set out below:

1. First, you must have been placed on deferred adjudication community supervision (hereinafter, "deferred adjudication") for the offense in question. The court that placed you on deferred adjudication will have issued an order of deferred adjudication in your case. Ideally, you should attach a copy of your order of deferred adjudication to your petition. (While attaching a copy of your order of deferred adjudication

is not required, doing so may expedite the process of obtaining an order of nondisclosure.) You can obtain a copy of your order of deferred adjudication from the clerk of the court that placed you on deferred adjudication.

Please note that if you were placed on deferred adjudication for an offense, you were not considered to be convicted. If you were convicted on an offense, you are not entitled to file a petition for an order of nondisclosure. This is the case even if you were placed on community supervision (*i.e.*, probation) after being convicted.

2. Second, you must have successfully completed deferred adjudication. If you successfully completed deferred adjudication, the court that placed you on deferred adjudication should have issued an order of dismissal and discharge. Ideally, you should attach a copy of your order of dismissal and discharge to your petition. (While attaching a copy of your order of dismissal and discharge is not required, doing so may expedite the process of obtaining an order of nondisclosure.) You can obtain a copy of your order of dismissal and discharge from the clerk of the court that placed you on deferred adjudication.

Please note that if you did not successfully complete deferred adjudication, you are not entitled to file a petition for an order of nondisclosure.

3. Third, the offense in question must be an offense for which you may obtain an order of nondisclosure. A person may be placed on deferred adjudication for a wide variety of offenses. Not all of these offenses, however, may be the subject of an order of nondisclosure. There are three categories of offenses that are not eligible for an order of nondisclosure.

- The first category consists of violations of any of the following sections of the Texas Penal Code: 19.02, 19.03, 20.04, 22.04, 22.041, 25.07, and 42.072. The Texas Penal Code is available online at <http://www.statutes.legis.state.tx.us>.

- The second category consists of offenses that require registration as a sex offender.

- The third category consists of offenses involving family violence. Please check your order of deferred adjudication to determine whether the offense in question falls in any of these three ineligible categories. If the offense falls in one of the three ineligible categories, you are not entitled to file a petition.

4. Fourth, you must not have any disqualifying criminal history. Here, the offense for which you are seeking an order of nondisclosure is not the concern. Rather, the concern is other offenses that may be part of your criminal record. There are three categories of offenses that will cause you to not be entitled to file a petition for an order of nondisclosure. If you have ever been convicted of (or placed on deferred adjudication for) any of these offenses, you are not entitled to file a petition.

- The first category consists of violations of any of the following sections of the Texas Penal Code: 19.02, 19.03, 20.04, 22.04, 22.041, 25.07, and 42.072.

- The second category consists of offenses that require registration as a sex offender.

- The third category consists of offenses involving family violence.

If you are unsure if you have a disqualifying criminal history, you may wish to check your criminal history record. You can obtain a copy of your criminal history record from the Texas Department of Public Safety (DPS). Procedures for obtaining your criminal history record can be found online at <http://www.txdps.state.tx.us>.

Your criminal history record will list the offenses for which you have been convicted or placed on deferred adjudication. Your criminal history record will not show whether any of these offenses required registration as a sex offender, nor will your criminal history record reveal whether any of the offenses involved family violence. The underlying judgments of conviction and orders of deferred adjudication will reveal this information.

Again, if you know your criminal history, you do not need to obtain your criminal history record. You are not required to attach your criminal

history record to your petition. You may, however, attach your criminal history record to your petition if you so desire.

5. Fifth, you must have waited a certain period of time after the court's order of dismissal and discharge to seek an order of nondisclosure.

- If the offense in question is a **felony**, you may not file a petition for an order of nondisclosure until the fifth anniversary after your dismissal and discharge.

- If the offense is a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46 of the Texas Penal Code, your wait is shorter. Specifically, you may not file a petition for an order of nondisclosure until the second anniversary after your dismissal and discharge.

- For any other misdemeanor, there is no waiting period; you may file a petition seeking an order of nondisclosure once the Court issues an order of dismissal and discharge.

6. Sixth, you must not have been convicted of (or placed on deferred adjudication for) any criminal offenses during a special time period. A fine-only offense under the Texas Transportation Code does not count as a criminal offense for purposes of this requirement. In other words, a traffic ticket does not count as a conviction.

The special time period begins on the date you were placed on deferred adjudication. The special time period ends on the date of your order of dismissal and discharge plus any applicable waiting period as described above.

If you meet all six of the foregoing requirements, you are entitled to file a petition for order of nondisclosure.

#### How do I obtain an Order of Nondisclosure?

In order to obtain an order of nondisclosure, you must first file a petition for an order of nondisclosure with the proper court. The petition is to be filed with the clerk of the court that handled the offense for which you were placed

on deferred adjudication. You will have to pay a filing fee in the approximate amount of \$280 – *the fee varies from county to county*. Please check with the clerk of the court to determine the exact filing fee. If you are indigent, you may file an affidavit of indigency in lieu of paying a filing fee. You can find a fill-in-the-blank affidavit-of-indigency form at <http://www.courts.state.tx.us/jcit/Efiling/IndigencyForm.doc>.

As mentioned immediately above, by meeting the six requirements you are entitled to file a petition for order of nondisclosure. This does not guarantee, however, that the judge will grant your petition and issue an order of nondisclosure. The judge must issue an order of nondisclosure only upon a finding that issuance of the order is in the best interest of justice.

On the next page you will find a petition form. Following the form, you will find detailed instructions on completing the form. You can fill in the blanks on the form by typing your answers in the spaces provided. Alternatively, you may handwrite the answers. Don't forget to sign your petition. Your petition does not need to be notarized. You may file your completed petition with the appropriate court clerk electronically, by mail, or in person. For directions on how to file your petition electronically, please go to <http://www.texfile.com>.

#### What happens after I file my Petition for an Order of Nondisclosure?

Once you have filed your petition, you do not need to provide notice to anyone else. The court clerk will provide notice of the filing of your petition to the State of Texas (*i.e.*, the prosecutor's office). The State may request a hearing on your petition. The first decision for the judge at the hearing will be whether you are entitled to file the petition. The second decision for the judge at the hearing will be whether issuance of an order of nondisclosure is in the best interest of justice.

If the State requests a hearing before the 45<sup>th</sup> day after receiving notice of the filing of your petition, the judge must hold a hearing. You will be required to attend this hearing. If the State does not ask for a hearing, the judge may still decide to hold a hearing. You will be given notice of the place and time of the hearing so be sure to keep your contact information up to date with the clerk of the court.

In many instances, however, the judge will not hold a hearing. If the State does not request a hearing, the judge may issue an order of nondisclosure

without holding any hearing. The judge will decline to hold a hearing in such a circumstance if he or she makes two determinations:

- that you are entitled to file a petition for an order of nondisclosure; and
- that issuance of an order of nondisclosure is in the best interest of justice.

In such an instance, the court clerk will provide you with a copy of the order of nondisclosure.

Who do I contact if I have questions about this process?

If you need legal advice, you should contact a lawyer. It is always best to hire a lawyer. A lawyer will be in the best position to advise you as to what you should do. Without the advice and help of a lawyer, you may not properly seek an order of nondisclosure. This may cause your petition for an order of nondisclosure to be denied.

If you have questions about the form, please contact the Texas Office of Court Administration at (512) 463-1625.



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](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

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In the

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

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

\_\_\_\_\_  
(4) County, Texas

## **Petition for Order of Nondisclosure**

\_\_\_\_\_  
(5) ("Petitioner") respectfully petitions 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 \_\_\_\_\_  
(6) in this Court to the offense of \_\_\_\_\_  
(7). This Court 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" \_\_\_\_\_  
(8) attached to this Petition. The term of Petitioner's period of deferred adjudication began on \_\_\_\_\_  
(9) and ended on \_\_\_\_\_  
(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 \_\_\_\_\_<sup>(18)</sup>.  
Therefore, the earliest date Petitioner is eligible to file this Petition is \_\_\_\_\_<sup>(19)</sup> date of the Order of Dismissal and Discharge. This "eligible-to-file" date is \_\_\_\_\_<sup>(20)</sup>.

### **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 (\_\_\_\_\_<sup>(21)</sup>), and ends on the eligible-to-file date, (\_\_\_\_\_<sup>(22)</sup>). Petitioner was not convicted of, or placed on deferred adjudication for, any specified offense during the relevant time period.

### **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,

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(28)

Cause No. \_\_\_\_\_

In the Matter of

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In the

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\_\_\_\_\_

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

## **Order of Nondisclosure**

Petitioner filed a Petition for an Order of Nondisclosure with this Court. Notice of the filing of the Petition was given to the State. The State was given an opportunity to request a hearing on the Petition. The State

- requested a hearing.
- did not request a hearing.

The Court

- conducted a hearing on \_\_\_\_\_.
- did not conduct a hearing.

The Court FINDS that Petitioner is entitled to file a Petition for an Order of Nondisclosure. Additionally, the Court FINDS that issuance of an Order of Nondisclosure is in the best interest of justice.

Accordingly, the Court ORDERS criminal justice agencies to not disclose to the public criminal history record information related to the offense of

\_\_\_\_\_ for which  
Petitioner was placed on deferred adjudication on \_\_\_\_\_.

Signed on \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding