

## Affirmative Findings and Special Orders for Felony Judgment Forms

**INSTRUCTIONS:** Certain offenses may require the court to make affirmative findings or include special orders in a judgment. Below are some affirmative findings and special orders that a court may insert into the judgment if needed. Cut and paste the text of the appropriate affirmative finding or special order into the judgment form and complete any field (gray area) that applies.

### **Age-Based Sex Offense**, Tex. Code Crim. Proc. art. 42.017

The Court enters an affirmative finding that: (1) at the time of the offense, Defendant was not more than four years older than the victim or intended victim and the victim or intended victim was at least 15 years of age; and (2) the conviction is based solely on the ages of the defendant and victim or intended victim at the time of the offense. Tex. Code Crim. Proc. art. 42.017.

*[NOTE: Use this affirmative finding only if the defendant is convicted of an offense under §21.11 (Indecency with a Child) or §22.011 (Sexual Assault), Tex. Penal Code.]*

### **Bias or Prejudice**, Tex. Code Crim. Proc. art. 42.014

The Court enters an affirmative finding that Defendant intentionally selected the victim because of Defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by status as a peace officer or judge, to wit: \_\_\_\_\_.

The Court enters an affirmative finding that Defendant intentionally selected the property that was damaged or affected as a result of the offense because of Defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by status as a peace officer or judge, to wit: \_\_\_\_\_.

The Court **ORDERS** Defendant to attend an educational program that teaches tolerance and acceptance of others.

*[NOTE: Tailor the paragraph to fit the facts of the case. Ex. Defendant intentionally selected the person against whom the offense was committed because of Defendant's prejudice against a group identified by race, to wit: the victim is a member of a group identified as African American.]*

### **Controlled Substance Used to Commit Offense**, Tex. Code Crim. Proc. art. 42.012

The Court enters an affirmative finding that Defendant administered or provided a controlled substance to the victim of the offense with intent to facilitate the commission of the offense.

*[NOTE: Use this affirmative finding only if the offense is an offense prosecuted under Chapter 29, Chapter 31, or Title 5 of the Texas Penal Code.]*

### **Credit For Payments Made**

The Court **FINDS** that Defendant made payments toward the fine, court costs, and restitution prior to revocation of defendant's probation or adjudication of guilt and is entitled to receive credit for those payments. Accordingly, the Court **ORDERS** the Clerk to give Defendant credit for amounts paid prior to revocation or adjudication. The Court **FINDS** that Defendant is entitled to receive credit in the amount of \_\_\_\_\_ toward the fine, credit in the amount of \_\_\_\_\_ toward the court costs, and credit in the amount of \_\_\_\_\_ toward the restitution. All parties, including the Community Supervision and Corrections Department, shall assist the Clerk in determining the amount of credit to which Defendant is entitled.

**Cumulation Order**, Tex. Code Crim. Proc. art. 42.01 § 1(19)

The Court **ORDERS** the sentence in this judgment to run consecutively and to begin only when the judgment and sentence in the following case ceases to operate: Cause Number \_\_\_\_\_, a judgment dated \_\_\_\_\_ ordering a sentence of \_\_\_\_\_ for the offense of \_\_\_\_\_, in the \_\_\_\_\_ Court.

**Delay in Arrest of Defendant**, Tex. Code Crim. Proc. art. 42.0198

The Court enters an affirmative finding of fact that \_\_\_\_\_ elapsed between the date a warrant issued for Defendant's arrest following indictment for the offense and the date Defendant was arrested for the offense.

*[NOTE: This finding applies only in the trial of an offense under Section 19.02 (Murder), 22.011 (Sexual Assault), or 22.021 (Aggravated Sexual Assault), Tex. Penal Code.]*

**Driver's License Suspension**

The Court **ORDERS** Defendant's driver's license suspended for a period of \_\_\_\_\_.

**Drug-Free Zones**, Tex. Health and Safety Code §481.134(c)

**[NOTE:** The special orders in this section apply to the following offenses:

- An offense punishable under Sec. [481.112](#)(c), (d), (e), or (f);
- An offense punishable under Sec. [481.112](#)(b)(2), (3), or (4);
- An offense punishable under Sec. [481.113](#)(c), (d), or (e);
- An offense punishable under Sec. [481.114](#)(c), (d), or (e);
- An offense punishable under Sec. [481.115](#)(c)-(f);
- An offense punishable under Sec. [481.115](#)(b)(2), (3), (4), or (5);
- An offense punishable under Sec. [481.116](#)(c), (d), or (e);
- An offense punishable under Sec. [481.116](#)(b)(4), (5), or (6);
- An offense punishable under Sec. [481.117](#)(c), (d), or (e);
- An offense punishable under Sec. [481.118](#)(c), (d), or (e);
- An offense punishable under Sec. [481.120](#)(b)(4), (5), or (6); and
- An offense punishable under Sec. [481.121](#)(b)(4), (5), or (6).]

The Court **FINDS** that the offense occurred in a drug free zone, to wit: \_\_\_\_\_.

**Family Violence**, Tex. Code Crim. Proc. art. 42.013

The Court enters an affirmative finding that Defendant's offense involved family violence, as defined by Section 71.004, Family Code.

**Finding of Age of Victim**, Tex. Code Crim. Proc. art. 42.015

***In the trial of an offense under: §Section 20.02, Unlawful Restraint; Section 20.03, Kidnapping; Section 20.04, Aggravated Kidnapping; or an attempt, conspiracy, or solicitation to commit any of those offenses***

The Court enters an affirmative finding that the victim or intended victim was younger than 17 years of age at the time of the offense.

***In the trial of a sexually violent offense, as defined by art. 62.001, Tex. Code Crim. Proc.***

The Court enters an affirmative finding that the victim or intended victim was younger than 14 years of age at the time of the offense.

**Finding of Age of Victim (continued)**

[NOTE: Currently, but you should check the statute for any changes, "sexually violent offense" includes the following offenses if committed by a person 17 years of age or older:

(A) an offense under Section [21.02](#) (Continuous Sexual Abuse of Young Child or Children), [21.11\(a\)\(1\)](#) (Indecency with a child), [22.011](#) (Sexual Assault), or [22.021](#) (Aggravated Sexual Assault), Tex. Penal Code;

(B) an offense under Section [43.25](#) (Sexual Performance by a Child), Tex. Penal Code;

(C) an offense under Section [20.04\(a\)\(4\)](#) (Aggravated Kidnapping), Tex. Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section [30.02](#) (Burglary), Tex. Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).]

**Finding Regarding Felony Conviction**, Tex. Code Crim. Proc. art. 42.0194

The Court enters an affirmative finding that Defendant has been found guilty of a felony.

**Gang-Related Conduct**, Tex. Code Crim. Proc. art. 42.0197

The Court enters an affirmative finding that Defendant engaged in conduct or committed the offense as part of the activities of a criminal street gang, to wit: \_\_\_\_\_, as defined in Section 71.01, Tex. Penal Code.

**Motor Fuel Theft**, Tex. Code Crim. Proc. art. 42.019 (Select the appropriate finding)

***In the first trial of an offense under §31.03, Tex. Penal Code***

The Court enters an affirmative finding that, in committing the offense of theft, Defendant dispensed motor fuel into the fuel tank of a motor vehicle on the premises of an establishment at which the motor fuel is offered for retail sale, and after dispensing the motor fuel, Defendant left the premises of the establishment without paying the establishment for the motor fuel.

***In the second or subsequent trial of an offense under §31.03, Tex. Penal Code***

The Court enters an affirmative finding that, in committing the offense of theft, Defendant dispensed motor fuel into the fuel tank of a motor vehicle on the premises of an establishment at which the motor fuel is offered for retail sale, and after dispensing the motor fuel, Defendant left the premises of the establishment without paying the establishment for the motor fuel. The Court further **FINDS** that Defendant has been previously convicted of an offense for which the judgment contains an affirmative finding under art. 42.019(a), Tex. Code Crim. Proc.

[NOTE: This affirmative finding applies only in the trial of an offense under Section 31.03, Tex. Penal Code.]

**Offenses Related to Performance of Public Service**, Tex. Code Crim. Proc. arts. 42.0192, 42.0193, & 42.0196

***Offense Related to Performance of Public Service - Teacher Retirement System of Texas, Art. 42.0192***

The Court enters an affirmative finding that the offense committed was related to Defendant's employment described by §824.009(b), Tex. Gov't Code, while a member of the Teacher Retirement System of Texas.

***Offense Related to Conduct of Certain Corrections Employees, Art. 42.0193 (select the appropriate finding)***

The Court enters an affirmative finding that Defendant: (1) is a member of the employee class described by §810.004(b)(1), Tex. Gov't Code, while a member of the Employees Retirement System of Texas because Defendant serves as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department; or (2) is otherwise eligible for membership in a public retirement system wholly or partly because Defendant served as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

***Offense Related to Performance of Public Service – Employee Retirement System of Texas, Art. 42.0196 (select the appropriate finding)***

The Court enters an affirmative finding that Defendant: (1) is a member of the elected class described by §810.003(b)(1), Tex. Gov't Code, while a member of the Employees Retirement System of Texas; or (2) is a holder of an elected office for which Defendant became wholly or partly eligible for membership in a public retirement system.

**Offenses Involving Certain Health Care Professionals, Tex. Code Crim. Proc. art. 42.0175**

The Court enters an affirmative finding that at the time of the offense Defendant held a license as a health care professional and the offense is: (1) an offense for which the defendant is required to register as a sex offender under Chapter 62; (2) a felony offense and the defendant used force or threat of force in the commission of the offense; or (3) an offense under Section 22.011, 22.02, 22.021, or 22.04, Penal Code, and: (A) the victim of the offense was a patient of the defendant; and (B) the offense was committed in the course of providing services within the scope of the defendant's license.

**Payment of Attorney Fees as Court Costs**

The Court **FINDS** that Defendant has financial resources that enable Defendant to offset in part or in whole the cost of the legal services provided to Defendant. Therefore, the Court **ORDERS** Defendant to pay \$ \_\_\_\_\_ as court costs to the County. Tex. Code Crim. Proc. art. 26.05(g).

**Repayment of Reward, Tex. Code Crim. Proc. art. 42.152**

The Court **ORDERS** Defendant to repay a reward or part of a reward under art. 37.073, Tex. Code Crim. Proc., in the amount of \$ \_\_\_\_\_ .00.

**Special Order Regarding Confinement as a Condition of Community Supervision**

Having **ORDERED** Defendant to serve a term of confinement as a condition of community supervision, the Court **ORDERS** the term of confinement as a condition of the community supervision to begin on \_\_\_\_\_ .

**Tax Fraud, Tex. Code Crim. Proc. art. 42.0182 (OPTIONAL - Select the appropriate finding)**

The Court enters an affirmative finding that Defendant's failure to pay a tax or file a report when due, as required by Title 2 or 3, Tex. Tax Code, was the result of fraud or an intent to evade the tax.

The Court enters an affirmative finding that Defendant altered, destroyed, or concealed a record, document, or thing, or presented to the Comptroller an altered or fraudulent record, document, or thing, or otherwise engaged in fraudulent conduct for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the Comptroller.

The Court enters an affirmative finding that Defendant's failure to file a report under Ch. 162, Tex. Tax Code, or to pay a tax under that chapter when the tax became due is attributable to fraud or an intent to evade the application of the chapter, or a rule adopted under Ch. 111 or 162, Tex. Tax Code.

**Unadjudicated Offenses, Tex. Penal Code §12.45**

The Court **FINDS** that, with the consent of the State's attorney, Defendant admitted guilt as to the following unadjudicated offense(s), and the Court agreed to take the unadjudicated offense(s) into account in determining the sentence for the offense of which Defendant was adjudged guilty. Accordingly, the Court **FINDS** prosecution is barred for the unadjudicated offense(s) listed herein.

**Victims of Trafficking or Other Abuse Tex. Code Crim. Proc. art. 42.0191**

The Court **FINDS** that the victim in this case is a victim of trafficking or other abuse.