



# SB 1281/HB 4074

## FACT SHEET

### 2023 LEGISLATIVE SESSION

#### WHAT THE BILL DOES

SB 1281/HB 4074 **aims to end the debt-based trap that is the state's Failure to Appear/Pay Program (FTAP). Through the FTAP Program, hundreds of thousands of Texans are being denied a renewal of license due to their inability to pay on the fines/fees associated with their "court debt."** Most of these fines/fees stem from either traffic violations or low-level fine only charges. **Denying access to a valid license due to inability to pay, not only criminalizes poverty but is counterproductive to its purported goal** – to increase appearance/payment. People need a valid driver's license to get from point A to point B, as well as to secure employment to help pay for the debt in question.

#### RESEARCH SUPPORTING POLICY CHANGE

Currently, the Department of Public Safety (DPS) has over 472,000 license renewal holds through the FTAP Program.<sup>1</sup> More than 96% of these holds are associated with expired licenses, forcing more than 454,000 Texans to drive with an invalid license due to unresolved court debt.<sup>2</sup> Drivers are often unable to afford the fines incurred through the FTAP Program because the fines are almost never adjusted for income.<sup>3</sup> This establishes a direct pathway from small driving tickets to unemployment, as many are unable to pay the fines.

One study examining employment retention among people who had their licenses suspended, found 42% of the population had experienced job loss during the period of their suspension.<sup>4</sup> For households that made under \$30,000 annually that percentage was even higher, 64%.<sup>5</sup> Similar employment loss can be anticipated in Texas given that many jobs in the state, even in urban areas, cannot be accessed via public transportation.<sup>6</sup> For those who continue driving despite license holds due to other critical tasks, such as healthcare appointments, getting to work, or taking children to school risk getting fined with more tickets if they are pulled over while driving with an invalid license (i.e., a debt-based "catch-22").

**The supposed goal of the FTAP Program is to increase compliance, either in the form of appearance or payment** (Note: entering a payment is by de-facto the equivalent to appearance when the requirement associated with one's charge is to pay a fine/fee). **However, there is no empirical evidence to suggest that the program is operating in this way. There is support though that illustrates the impractical nature of its existence.**<sup>7</sup> Per OmniBase Services of Texas (OST), a third-party vendor responsible for tracking these license holds, the number of people trapped by holds in *their* system is nearly 994,000, or about 1 in 20 of the state's driving population.<sup>8</sup> That's more than double the number of holds in DPS' system.

While claims have been made that this mechanism serves as an alternative to issuing a warrant for one's arrest, a recent examination of both *capias* and Class C warrants issued by roughly 790 municipal courts across the state shows otherwise.<sup>9</sup> A statistical test of differences reveals that courts using the FTAP Program issue both *capias* and Class C warrants, at a rate that is 1.3 times and 2 times higher, respectively, than those jurisdictions that do not. These differences were found to be statistically significant. Research also shows there to be no significant difference in the amount of revenue collected by the courts that use the FTAP Program versus those

that do not.<sup>10</sup> Similarly, jurisdictions that have opted to terminate their contract with OST, have experienced no adverse impact on the revenue they collect after doing so.<sup>11</sup> Meaning there is no financial (nor procedural) incentive or reasoning on behalf of the courts, and thus the state, to continue to use said program.

**Bringing an end to the FTAP Program and restoring the debt-based holds underneath it can help spur economic growth. In doing so more Texans can get back on the road and back to work.**

## RECOMMENDATION

Texas Appleseed recommends that the Texas Legislature adopt and implement SB 1281/HB 4074, which repeals the FTAP Program and seeks to get hundreds of thousands of Texans, legally back on the road. Benefits of passing of SB 1281/HB 4074 include:

- ✔ **Promoting financial stability for the hundreds of thousands of Texans impacted by the FTAP Program.**
- ✔ **Stimulating economic growth through decreased unemployment rates.**
- ✔ **Alleviating court backlogs by decreasing the administrative burden associated with processing license renewal holds.**

## REFERENCES & ENDNOTES

<sup>1</sup> Data obtained via Public Information Request to the Texas Department of Public Safety on the total number of holds by jurisdiction as of Nov 1, 2022, on file with author.

<sup>2</sup> Ibid.

<sup>3</sup> KXAN Investigates (February 2023). *Nearly 1M drivers at risk of losing licenses. Are you one of them?* Retrieved from <https://www.kxan.com/investigations/nearly-1m-drivers-at-risk-of-losing-licenses-are-you-one-of-them/>

<sup>4</sup> Carnegie, J.A. & Voorhees, A.M. (2007). *Driver's License Suspensions, Impacts & Fairness*, Transportation Center at Rutgers, State Univ. of New Jersey, available at <https://www.nj.gov/transportation/business/research/reports/FHWA-NJ2007-020-V1.pdf>

<sup>5</sup> Another study of recipients of government benefits found that those with a valid driver's license were twice as likely to have earnings about the poverty level than those without a license. Pawasarat, J. & Stetzer, F. (2007). *The EARN (Early Assessment and Retention Network) Model for Effectively Targeting WIA and TANF Resources to Participants*, U. OF WIS. EMP. & TRAINING INST., available at <https://www4.uwm.edu/eti/2007/EARNModel.pdf>

<sup>6</sup> Brookings Institute, *Missed Opportunity: Transit and Jobs in Metropolitan America* (2011).

<sup>7</sup> KXAN Investigates (February 2023). *Nearly 1M drivers at risk of losing licenses. Are you one of them?* Retrieved from <https://www.kxan.com/investigations/nearly-1m-drivers-at-risk-of-losing-licenses-are-you-one-of-them/>

<sup>8</sup> Ibid.

<sup>9</sup> Texas Appleseed (March 2023). *The relationship between driver's license holds and warrants. Internal analysis, data, and results on file with author. Capias warrants using FTAP ( $M = 0.80$ ,  $sd = 1.18$ ), not using FTAP ( $M = 0.61$ ,  $sd = 1.07$ ),  $t(290) = -1.99$ ,  $p = .05$ ; Class C warrants using FTAP ( $M = 3.85$ ,  $sd = 4.82$ ), not using FTAP ( $M = 1.90$ ,  $sd = 3.16$ ),  $t(423) = -6.33$ ,  $p < 0.05$ .*

<sup>10</sup> Texas Appleseed & Texas Fair Defense Project (August 2021). *Driven by Debt: The failure of the OmniBase Program*. Retrieved from <https://www.texasappleseed.org/sites/default/files/OmniBaseRevenueReport-Aug11-Final.pdf>. An examination of revenue data from 800 municipal courts showed that the difference in revenue collected by courts who use the OmniBase program versus those that do not to be exactly \$45.44; a nominal and insignificant difference.

<sup>11</sup> Ibid. There was no significant difference in the revenue collected for the City of Austin and Harris County, before and after these jurisdictions made the decision to terminate their contract with OST.



### Contact Information:

**Cole Meyer**  
Policy Associate, CJ Project  
cmeyer@texasappleseed.org  
737.900.9440 (cell)

**Akanksha Balekai**  
Policy Analyst, CJ Project  
abalekai@texasappleseed.org  
737.900.9436 (cell)