

# HOUSING ON HOLD

## How the Failure to Appear/Pay Program Disrupts Housing Security

ONE-PAGER • October 2024

Texas has been experiencing a population boom, causing it to expand four times faster than the rest of the United States.<sup>1</sup> In Texas, nearly one-quarter of households are considered low-income. Of these, almost 80% are burdened with housing costs that exceed a significant portion of their income.<sup>2</sup> For low-income households, even small traffic fines can cause financial distress.<sup>3</sup> The financial consequences associated with holds often lead most individuals to continue to drive, exposing them to more significant punishment.<sup>4</sup>

Under Texas law, criminal courts can impose holds on driver's licenses for nonpayment of fines, court costs, and fees.<sup>5</sup> Unlike suspensions resulting from unsafe driving, these debt-based holds punish individuals for their financial difficulties by stripping them of their legal driving privileges. The impact of these holds can extend far beyond transportation by impacting access to housing.

A valid driver's license is crucial when securing housing, as most applications most likely require a copy of the applicant's driver's license.<sup>6</sup> Navigating the housing market becomes challenging as licenses are often mandatory for signing leases, applying for housing assistance, or even accessing shelter services. Molly (pseudonym), a chronically unhoused resident of San Antonio, has personally struggled under the city's contract with OmniBase, which manages the Failure to Appear/Pay program. In addition to her hardships, Molly works with other residents in San Antonio who experience all forms of homelessness attributed to the FTAP program.

"[The FTAP Program is] causing people to lose their housing, lose any form of obtaining housing, as well as causing people to lose their jobs or remain unemployed," she explains. "I speak from personal experience, as I nearly became homeless again because I was not able to obtain an ID card, which Human Resources demanded to continue my employment."

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In 2023, the challenges of securing stable housing have intensified, with nearly a fifth of Americans falling behind on their rent payments at some point.<sup>7</sup> Unpaid legal fines and fees further exacerbate this situation. The uncertainty of employment often translates into severe financial hardship, leading to individuals falling behind on mortgage or rent payments.<sup>8</sup> These missed payments can lead to damaged credit scores, often used to assess an applicant's candidacy for rental or permanent housing.<sup>9</sup>

Debt-based license holds criminalize poverty and perpetuate a cycle of financial instability. By penalizing individuals for their inability to pay fines and fees, these policies create significant barriers to housing. The current premise of the Failure to Appear/Pay Program is nonsensical, given that there is no significant difference in the amount collected per criminal case between municipal *and* JP courts that participate in the program and those that do not.<sup>10</sup> On the contrary, data from more than 800 municipal courts across Texas shows the average collection rate per case for courts using OmniBase to be \$45.44 less than for courts not using the program.<sup>11</sup> **Join us in asking lawmakers to end debt-based license holds statewide and get people back on the road to financial prosperity.**

## REFERENCES & ENDNOTES

<sup>1</sup> Biernacka-Lievestro, J., & Fall, A. (2024). *Population Growth in Most States Lags Long-Term Trends*. Retrieved from <https://www.pewtrusts.org/en/research-and-analysis/articles/2024/05/07/population-growth-in-most-states-lags-long-term-trends>

<sup>2</sup> National Low Income Housing Coalition. (2024). *Housing Needs by State: Texas*. Retrieved from <https://nlihc.org/housing-needs-by-state/texas>

<sup>3</sup> Mello, S. (2023). *Speed Trap or Poverty Trap? Fines, Fees, and Financial Wellbeing*. Retrieved from <https://mello.github.io/files/fines.pdf>

<sup>4</sup> Marsh, A. (2017). *Rethinking Driver's License Suspensions for Nonpayment of Fines and Fees*. *Trends in State Courts*, 2017, pp. 20-26. HeinOnline.

<sup>5</sup> Tex. Transp. Code § 706.004.

<sup>6</sup> Marsh, A. (2017). *Rethinking Driver's License Suspensions for Nonpayment of Fines and Fees*. *Trends in State Courts*, 2017, pp. 20-26. HeinOnline.

<sup>7</sup> Board of Governors of the Federal Reserve System. (2024). *2023 Report on the Economic Well-Being of U.S. Households*. Retrieved from <https://www.federalreserve.gov/publications/files/2023-report-economic-well-being-us-households-202405.pdf>

<sup>8</sup> Mitchell, A., Mitchell, J., & Nichols, S. (2013). *Consequences of Long-Term Unemployment*. Urban Institute. Retrieved from <https://www.urban.org/sites/default/files/publication/23921/412887-Consequences-of-Long-Term-Unemployment.PDF>

<sup>9</sup> Kerkhof, T. (2021). *Small Fines and Fees, Large Impacts: Ability-to-Pay Hearings*. *Southern California Law Review* 95 (2021): 447.

<sup>10</sup> In 2021, Texas Appleseed published a Driven by Debt Report which looked at differences in municipal court revenue for courts who opt to use the FTAP program versus those that do not (see Texas Appleseed (2021). *Driven by debt: The Failure of the OmniBase Program*. Retrieved from <https://www.texasappleseed.org/sites/default/files/2023-05/omnibaserevenue-report-aug11-final.pdf>). In 2024, we have expanded this analysis to JP courts and found that there is also no difference in the revenue collected for JP courts who opt to use the FTAP program versus those that do not. The new data is on file with the authors, and an updated Driven by Debt Report is forthcoming.

<sup>11</sup> Texas Appleseed (2021). *Driven by debt: The Failure of the OmniBase Program*. Retrieved from <https://www.texasappleseed.org/sites/default/files/2023-05/omnibaserevenue-report-aug11-final.pdf>.