



## EXECUTIVE SUMMARY

# Driving Texans to Debt:

## The Use of Texas' Failure to Appear/Pay Program in San Antonio

March 2024

### OVERVIEW

Through Texas' Failure to Appear/Pay (FTAP) Program, participating municipal and justice of the peace courts can place a hold on a person's ability to renew their driver's license if they are unable to pay fines and fees associated with low-level, fine-only offenses (e.g., traffic tickets). Among Texas cities, San Antonio is one of the heaviest users of the FTAP Program (aka the "OmniBase Program," named after the private vendor that operates it – OmniBase Services of Texas (OST)).<sup>1</sup>

Denying access to a valid license due to financial hardship not only criminalizes poverty, but is counterproductive to the OmniBase program's purported goal – to increase appearance/payment. People need a valid driver's license to get to and from court, work, childcare to secure or retain employment and services to help pay for the debt in question. As the City of San Antonio works to implement workforce development programs post-pandemic, it must eliminate counterproductive barriers to employment - like the OmniBase Program - for these economic initiatives to succeed.

### RESEARCH SUPPORTING POLICY CHANGE

- S.A. Municipal Court has almost 88,000 outstanding holds on people's licenses.<sup>2</sup>
- Bexar County JP Courts have nearly 90,000 holds.<sup>3</sup>
- Four out of five San Antonio residents drive to work.<sup>4</sup>
- Black residents disproportionately receive FTAP holds, representing 14% of total current holds and only 7% of the San Antonio population.<sup>5</sup>
- The ten San Antonio zip codes with the highest concentration of holds have an average median household income of \$37,599, while the median household income for San Antonio is \$54,923.<sup>6</sup>
- A person with an FTAP hold (or holds) cannot renew their driver's licenses until *all* holds are lifted, which requires *all* court debt to be completely paid off.
- Holds have an average length of five years since they've been imposed, meaning many people are unable to pay off their debt in a timely manner.<sup>7</sup>
- The main arguments used to support this program are that it ensures the collection of fines/fees owed to a jurisdiction, and that it serves as an alternative to issuing warrants for one's arrest.
  - Warrant data reveals that the S.A. Municipal Court administers *capias* and Class C warrants at a rate of 1.43 and 1.42 times *higher* than the statewide average of courts that do not use the program.<sup>8</sup>
  - Additional analyses also show no significant difference in the amount collected per criminal case between municipal courts using the FTAP Program and those that do not.<sup>9</sup>

### RECOMMENDATIONS

Restoring driver's licenses can contribute to citywide economic growth. Research shows that having a driver's license makes it twice as likely for a person to have earnings above the poverty level.<sup>10</sup> To ensure San Antonians have this same opportunity to reach financial stability, the city should exit the OmniBase Program, just like the cities of Dallas and Austin, and Harris County have all voted to do over the last three years. Analysis of court collections for Austin and Harris County after they opted to terminate their contracts with OmniBase showed no significant difference in collections.<sup>11</sup> The wealth of statewide data on court collections shows no financial incentive for courts to continue to use this program. Lifting these holds could save thousands of hours of law enforcement time, instead allowing police to focus on actual safety risks.

Instead, the City should implement research- and evidence-based policies that help people quickly resolve debt and avoid long-term financial distress.<sup>12</sup> Some evidenced-based alternatives include redesigning court summons forms, using text messages or other reminders for court dates, prioritizing the tailoring of fines to one's income level, allowing for community service to be completed instead of payment, applying time served credit to the amount owed, and dismissing older cases and forgiving the associated debt.<sup>13 14</sup> By choosing to terminate their contract with OST, the City of San Antonio can assist thousands of its residents in getting back on the road and back to work.

#### FOR MORE INFORMATION, PLEASE CONTACT:

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#### REFERENCES & ENDNOTES

<sup>1</sup> Established pursuant to Chapter 706 of the Texas Transportation Code, the program is officially called the "Failure to Appear/Pay Program." The Texas Department of Public Safety has contracted with a private vendor, OmniBase Services of Texas, to work with courts to administer the holds, leading to the program commonly referred to as the "OmniBase Program."

<sup>2</sup> Data obtained from the San Antonio Municipal Court and the Texas Department of Public Safety, on file with author.

<sup>3</sup> Data obtained from the Texas Department of Public Safety, on file with the author. At the end of 2021, Bexar County JP courts had a total of 138,213 holds on record, in 2022 that # dropped to 41,414. Because the placement of holds can vary greatly throughout the year, it's not uncommon to see a change in the number of holds from one year to the next, though this drop is indeed quite noticeable. The average between these two years is 89,813, thus the "nearly 90,000 holds" statistic. Additionally, Bexar County is home to 23 cities, a review of only four of those cities – Leon Valley (5,541 holds), Alamo Heights (4,073), Helotes (1,466), and Converse (2,582) – shows that tens of thousands of holds are being placed in the surrounding areas of San Antonio.

<sup>4</sup> Data obtained from the Texas Department of Public Safety, on file with the author. At the end of 2021, Bexar County JP courts had a total of 138,213 holds on record, in 2022 that # dropped to 41,414. Because the placement of holds can vary greatly throughout the year, it's not uncommon to see a change in the number of holds from one year to the next, though this drop is indeed quite noticeable. The average between these two years is 89,813, thus the "nearly 90,000 holds" statistic. Additionally, Bexar County is home to 23 cities, a review of only four of those cities – Leon Valley (5,541 holds), Alamo Heights (4,073), Helotes (1,466), and Converse (2,582) – shows that tens of thousands of holds are being placed in the surrounding areas of San Antonio.

<sup>5</sup> U.S. Census Bureau, Quick Facts San Antonio city, Texas. Retrieved from <https://www.census.gov/quickfacts/fact/table/sanantoniocitytexas,US/PST045222>.

<sup>6</sup> U.S. Census Bureau, American Community Survey (ACS), 2021 5-Year Estimates.

<sup>7</sup> 0 Data obtained from the San Antonio Municipal Court, on file with author.

<sup>8</sup> 2021 Capias and Class C warrant data collected from the Office of Court Administration, datasets on file with author. (These differences were not found to be statistically significant.)

<sup>9</sup> Texas Appleseed & Texas Fair Defense Project, Driven by Debt: The Failure of the OmniBase Program. (2021). Retrieved from <https://www.texasappleseed.org/sites/default/files/OmniBaseRevenueReport-Aug11-Final.pdf>.

<sup>10</sup> John Pawasarat & Frank Stetzer, The EARN (Early Assessment and Retention Network) Model for Effectively Targeting WIA and TANF Resources to Participants, U. OF WIS. EMP. & TRAINING INST., 2007, available at <https://www4.uwm.edu/eti/2007/EARNModel.pdf>. See also Jon A. Carnegie & Alan M. Voorhees, Transportation Center at Rutgers, State Univ. of New Jersey, Driver's License Suspensions, Impacts & Fairness (2007), available at <https://www.nj.gov/transportation/business/research/reports/FHWA-NJ-2007-020-V1.pdf> (Large study of drivers with suspended licenses in New Jersey found that 42% lost their jobs when their license was suspended, and the impact was even greater on drivers with household incomes below \$30,000: 64% of these drivers lost their jobs and 51% could not find another job).

<sup>11</sup> Texas Appleseed & Texas Fair Defense Project, Driven by Debt: The Failure of the OmniBase Program. (2021). Retrieved from <https://www.texasappleseed.org/sites/default/files/OmniBaseRevenueReport-Aug11-Final.pdf>. (The Graphs on page 4 of the Driven by Debt report show that revenue per criminal case disposed increased slightly after eliminating the contract with OmniBase).

<sup>12</sup> One Washington state amnesty program for drivers with suspended licenses saved 4,500 hours of patrol officers' time (see <https://www.acslaw.org/wp-content/uploads/2019/03/License-Suspension-Issue-Brief-Final.pdf>). A Florida study estimated that adjudicating cases involving debt-based license suspensions cost Florida state courts more than \$40 million a year, resulting in a "costly debtor's prison" (see <https://finesandfeesjusticecenter.org/content/uploads/2019/11/florida-fines-fees-drivers-license-suspension-drivingon-empty.pdf>).

<sup>13</sup> Here is an example of a redesigned summons form that Harris County has created in partnership with Ideas42:

[https://www.ideas42.org/project/increasing-harris-county-court-appearances-by-adapting-testedsolutions/?utm\\_source=Safety+%26+Justice+%7C+ideas42&utm\\_campaign=208a2462aaEMAIL\\_CAMPAIGN\\_2023\\_11\\_02\\_02\\_00&utm\\_medium=email&utm\\_term=0\\_-208a2462aa-%5BBLIST\\_EMAIL\\_ID%5D&mc\\_cid=208a2462aa&mc\\_eid=9adee68691](https://www.ideas42.org/project/increasing-harris-county-court-appearances-by-adapting-testedsolutions/?utm_source=Safety+%26+Justice+%7C+ideas42&utm_campaign=208a2462aaEMAIL_CAMPAIGN_2023_11_02_02_00&utm_medium=email&utm_term=0_-208a2462aa-%5BBLIST_EMAIL_ID%5D&mc_cid=208a2462aa&mc_eid=9adee68691); see also Cooke, B., Dip, B. Z., Fishbane, A., Hayes, J., Ouss, A., & Shah, A. (2018) Using behavioral science to improve criminal justice outcomes. University of Chicago Crime Lab Report.

<sup>14</sup> Bornstein, B. H., Tomkins, A. J., Neeley, E. M., Herian, M. N., & Hamm, J. A. (2013). Reducing courts' failure-toappear rate by written reminders. *Psychology, Public Policy, and Law*, 19(1), 70.