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# TEXAS DEPARTMENT OF PUBLIC SAFETY

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September 22, 2020

**RQ-0379-KP**

FILE# **ML-48883-20**

I.D.# **48883**

The Honorable Ken Paxton  
Attorney General of Texas  
Opinion Committee  
209 West 14<sup>th</sup> Street, 6<sup>th</sup> Floor  
Austin, Texas 78701

Re: Request for Attorney General Opinion

Dear Attorney General Paxton:

Pursuant to Government Code section 402.042, I request an opinion regarding Chapter 706 of the Transportation Code. Specifically:

**May a political subdivision require the Department of Public Safety to lift driver license renewal holds that the political subdivision requested under Transportation Code Chapter section 706 if the political subdivision has not met the requirements for sending a clearance notice under section 706.005 or has not collected the reimbursement fee required by section 706.006?**

### **Background**

Chapter 706 of the Transportation Code establishes the Failure to Appear (FTA) program. Under FTA, a political subdivision may contract with the department so that the department may deny the renewal of the driver license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering the payment of a fine or costs originating in a court of the political subdivision. The department may continue to deny renewal of a person's driver license until receipt of a "clearance notice" from the political subdivision notifying the department that there is no cause to continue denial. In addition to addressing the underlying cause of a failure to appear, a person must pay, under some circumstances, a reimbursement fee before a political subdivision is authorized to issue a clearance notice to the department. *See* Texas Transportation Code §§ 706.005-706.006.

Section 706.008 authorizes the department to contract with a private vendor to implement the FTA program. The department has contracted with OmniBase Services of Texas (OmniBase) to provide the automated system that implements the FTA program. OmniBase, in turn, has entered into agreements with political subdivisions whereby OmniBase is compensated through the political subdivisions' collection of the administrative fees established under Transportation Code section 706.006. The department makes no direct or indirect payment to the vendor.

Harris County has terminated the agreement with the department by which it has participated in the FTA program and requested that the department lift all holds issued by courts in Harris County in connection with the agreement. Harris County seeks the lifting of all renewal holds it has placed regardless of whether a clearance notice is authorized under section 706.005 and regardless of whether the person who failed to appear for a complaint or citation for an offense has paid a reimbursement fee pursuant to section 706.006. In addition to the statutory provision referenced above, Harris County has contractually agreed to collect the applicable reimbursement fee prior to submitting a clearance notice.

Included with this request for your consideration is the agreement between the department and Harris County and Harris County's termination letter dated July 17, 2020. Based upon the immediate and ongoing impact of this question, the department requests expedited consideration. Should you require any additional information please contact General Counsel Phillip Adkins at (512) 424-2503.

Sincerely,



Steven C. McCraw  
Director

cc: D. Phillip Adkins, General Counsel, Office of General Counsel  
Jeoff Williams, Deputy Director, Law Enforcement Services  
Freeman Martin, Deputy Director, Homeland Security Operations  
Sheri Gipson, Chief, Driver License Division  
Kevin Cooper, Chief, Media and Government Relations  
Vince Ryan, Harris County Attorney  
Tommy Ramsey, Assistant County Attorney