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THE CRIMINAL JUSTICE PROJECT





AN UPDATED ANALYSIS OF THE STATE'S FAILURE TO APPEAR/PAY PROGRAM













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CRIMINAL JUSTICE PROJECT

TEXAS APPLESEED



Texas Appleseed is a data-driven nonprofit committed to supporting children, families and communities through policy change, at both the state and local level.



DATA DRIVEN NONPROFIT





PRESENTATION OVERVIEW

- ➤ What is the Failure to Appear/Pay program?
- What we knew about FTAP prior to the current study
- Study at hand: Overview, Research Questions, Data & Methods, Findings & Discussion, Limitations
- ➤ What works in addressing court appearance rates?
- Recommendations + Conclusion



THE FAILURE TO APPEAR/PAY PROGRAM

Under Texas law, courts can put a hold on active driver's licenses and prevent license renewals for the nonpayment of fines and fees associated with fine-only offenses (i.e., Class C Misdemeanors).

The majority of these holds are associated with traffic violations and are issued by JP and Municipal Courts.

This is referred to as the state's Failure To Appear/Pay Program.

TITLE 7. VEHICLES AND TRAFFIC

SUBTITLE I. ENFORCEMENT OF TRAFFIC LAWS

SHAFTER 706. DENIAL OF RENEWAL OF LICENSE FOR FAILURE TO

. DEFINITIONS. In this chapter:

Code f Chin rl/Procedure.

(2) "Department seals the Department of Public Safety.

(3) "Driver's literse" has the meaning assigned by Section 521

- (4) "Highway or street has the meaning assigned by Section 54
- (5) "Motor vehicle" has the meaning Austiched by Section 541 20
- (0) Operator has the meaning assigned to restrict
- (1) Policical subdivision weaks a municipality of court
- (8) "Public place" has the meaning assigned by Section 1 (1) P

ble by a fine in an amount not to exceed \$1,000, that:

(A) regulates an operator's conduct or condition while operator's conduct or condition while operator.
(A) ghway or street or in a public place;

(B) regulates the condition of a motor vehicle while it is or street;

(C) relates to the driver's license status of an operator on a highway or street; or

(D) relates to the registration status of a motor vehicle d on a highway or street.

TRANSPORTATION CODE

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- (6) "Operator" has the meaning assigned by section 41.0
- (7) "Political subdivision" means a municipality or cold
- (8) "Public place" has the meaning assigned by Section 1 (7).

(9) "Traffic law" means a statute or ordinance, a violation of ble by a fine in an amount not to exceed \$1,000, that: TRANSPORTATION CODE

TITLE 7. VEHICLES AND TRAFFIC

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punishable by a fine in an amount not to exceed \$1,000, that:

 (A) regulates an operator's conduct or condition whit on a highway or street or in a public place;

(B) regulates the condition of a motor vehicle while it is being operated on highway or street;

(C) relates to the driver's license status of an operator while operating a motor vehicle on a highway or street; or

(D) relates to the registration status of a motor vehicle while it is being operated on a highway or street.

nisdemeano ile opera

No financial commitment tied to entering or exiting a contract under the FTAP program.

OmniBase Services of Texas (OST), third party vendor (since 1996)

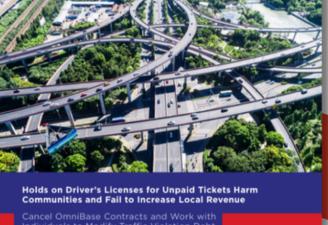


Other ways to deal with a fine/fee exist - waiver, community service, and jail credit.



Hold Lifting Fee = \$10.00 (\$4.00 court, \$6.00 OST)

DRIVEN BY DEBT THE FAILURE OF THE OMNIBASE PROGRAM



TFDP

Cancel OmniBase Contracts and Work with Individuals to Modify Traffic Violation Debt

NO SIGNIFICANT DIFFERENCE IN THE REVENUE COLLECTED

AUGUST 202

FOR MUNICIPAL COURTS THAT USE FTAP HOLDS VS THOSE THAT DON'T.

MUNICIPAL COURTS USING FTAP ISSUE WARRANTS - BOTH CAPIAS AND CLASS C - AT A SIGNIFICANTLY HIGHER RATE THAN THOSE THAT DON'T.



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.¹ 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.² Drivers are often unable to afford the fines incurred through the FTAP Program because the fines are almost never adjusted for income.³ 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.4 For households that made under \$30,000 annually that percentage was even higher, 64%.⁵ 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.⁶ 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 fineflee). 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.⁷ 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 statistic devices in the POC in subscience in the POC entering the POC in th state's driving population.⁸ 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.⁹ 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



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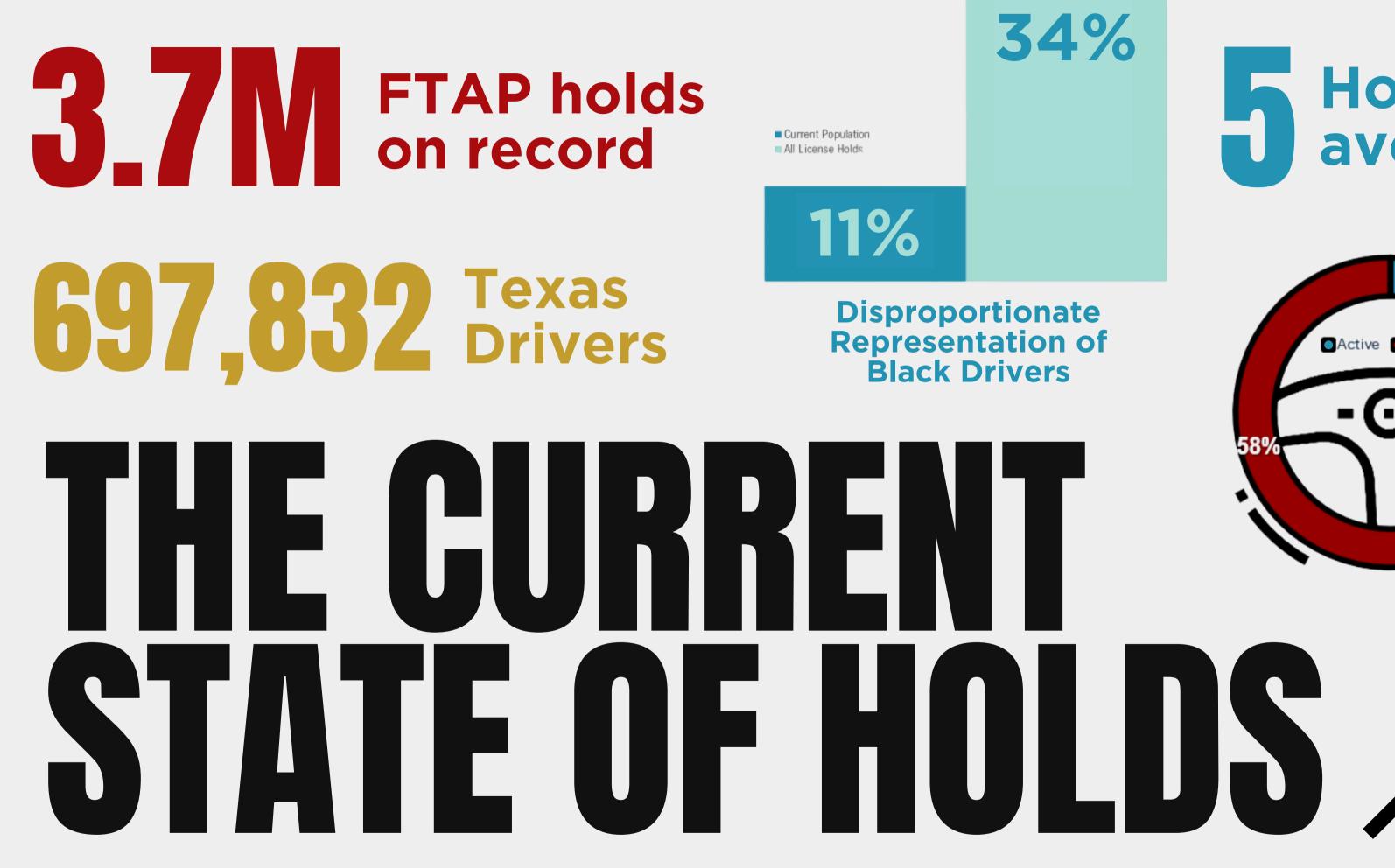
A LOST LICENSE UNDER DEBT-**BASED RESTRICTION PROGRAMS CAN COST BETWEEN \$12,700 AND \$23,550.**



Replicates past analyses on revenue collected and warrants issued by city courts, using updated data. Extends past analyses on revenue collected and warrants issued to also include county justice (or JP) courts.

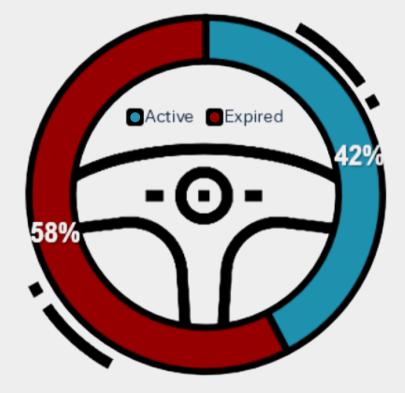


Examines the geographical variation associated with lost earnings due to having a nonrenewable license due to an FTAP hold(s).





Holds on average









RESEARCH Ouesting

- Are there differences in the revenue collected in municipal and JP courts that do and do not issue holds under the FTAP program? If so, are these differences statistically significant?
- Are there differences in capias warrants issued in both municipal and JP courts? If so, are these differences statistically significant?
- Are there differences in Class C warrants issued in both municipal and JP courts? If so, are these differences statistically significant?
- How does the loss in earnings associated with an expired license under FTAP vary among Texas cities and counties?



DATA SOURCES

For the year 2023:

- Holds issued by jurisdiction (OST)
- Holds issued by license (DPS)
 - On active licenses
 - On expired licenses
 - By zip & race/ethnicity
- Court activity by city/county (DPS)
 - Jurisdictional population
 - Revenue collected
 - Capias pro fine warrants issued
 - Class C warrants issued

METHODOLOGY

- - Revenue
 - Capias warrants
 - Class C warrants
- - Holds
- Capias warrants (cross-check) • Class C warrants (cross-check) Geospatial plotting of holds and lost earnings by city/county

Test of differences for nonparametric distributions

Test of differences in proportions

Table 1: Courts Participating in FTAP			
	Municipal Courts (%)	County Justice Courts (%)	
Holds on Record	769 (77.5)	243 (95.7)	
No Holds on Record	223 (22.5)	11 (4.3)	
Totals 992 (100.0) 254 (100.0)		254 (100.0)	

GOURTS THAT ISSUE FTAP HOLDS

 Courts were defined as "participating" in the FTAP program if they had any holds on record with OST/DPS.

 Cities and counties with multiple courts were condensed to reflect their underlying city or county.

 Table 1 provides the number of city and county courts with FTAP holds on record and those without.

HOLDS, WARRANTS, & REVENUE

Standardizing Values to Address Outliers

Holds/Warrants Issued by Court *100 Jurisdictional Population

Calculating **Revenue Collected**

Total Revenue Collected by Court (USD) Criminal Cases Disposed

Table 2: Average Number of Holds, Warrants, and **Revenue Collected by All Courts**

Averages/Median*

FTAP Holds Issued per 100 Residents

Capias Warrants Issued per 100 Residents

Class C Warrants Issued per 100 Residents

Revenue Collected by Criminal Case

Municipal Courts	County Justice Courts
50.9	43.3
2.6	0.6
8.6	2.1
\$191.87	\$216.64

Table 3: Average Number of Warrants and Revenue Collected by Courts that Do/Do Not Participate in the FTAP Program

	Municipal Courts		County Justice Courts	
	Do Use FTAP Holds (<i>n</i> = 769)	Do Not Use FTAP Holds (<i>n</i> = 223)	Do Use FTAP Holds (<i>n</i> = 243)	Do Not Use FTAP Hold (<i>n</i> = 11)
Averages/Median*				
Capias Warrants Issued per 100 Residents	3.1	0.8	0.5	2.4
Class C Warrants Issued per 100 Residents	10.0	2.6	2.2	0.9
Revenue Collected by Criminal Case [*]	\$192.48	\$178.15	\$216.36	\$259.18

se ds

GOURTS FHAT DO / ARTICIPATE IN FTAP

FINDINGS: QUESTIONS 1, 2, 3

	Is there a difference between municipal and JP courts that do/do not use FTAP?	
Revenue Collected	Yes	di
Capias Warrants Issued	Yes	Ye wa
Class C Warrants Issued	Yes	wa

If so, is that difference statistically significant?

No, there is no statistical ifference in revenue collected for city or JP courts.

es, cities issue capias pro fine arrants at a significantly higher rate - 3.9 times higher.

Yes, cities issue Class C arrants at a significantly higher rate - 3.8 times higher.

TEST RESULTS NIFICA R F F **FRIC** RAMF1 DSTRBUTIONS

Table 4: Te Mann-Whit Revenue Collected Capias Warrants Class C Warrants Two-tailed tests, significant at .05

est Statistics for Wilcoxon ney Tests		
	Municipal Results	JP Results
	<i>z</i> = 1.5	<i>z</i> = -1.4
	<i>t</i> = 65	<i>t</i> = 20
	<i>p</i> = 0.13	<i>p</i> = 0.16
	<i>z</i> = 4.59	<i>z</i> = -1.26
	<i>t</i> = 95.9	<i>t</i> = 37.4
	p < 0.00	p = 0.21
	z = 6.75	<i>z</i> = 0.56
	<i>t</i> = 117.50	<i>t</i> = 55.6
	p < 0.00	p = 0.30

Capias Warrants

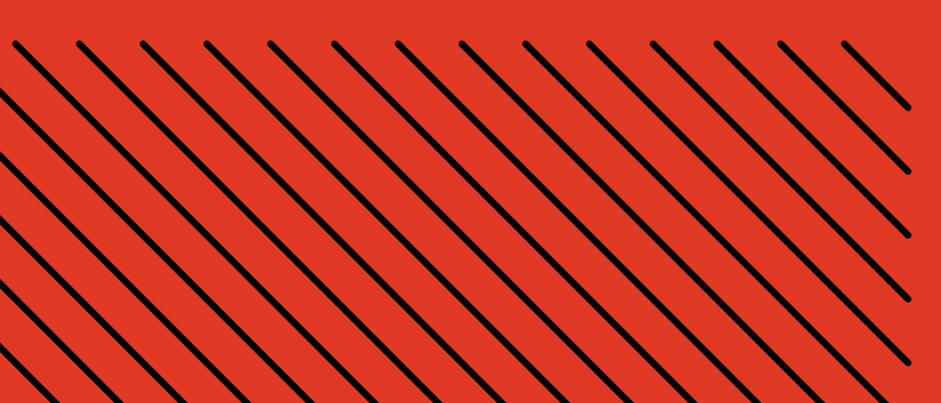
Class C Warrants

Two-tailed tests, significant at .05

TEST RESULTS FOR SIGNIFICA IFFERENCES IN PROPORTIONS

Table 5: Test Statistics for Z-Tests for Differences in Proportions (& Cohen's h)

	Municipal Results	JP Results
	z = 1.98 p = .05 h = .2	z = -0.73 p = 0.47
	<i>z</i> = 3.64 <i>p</i> < 0.01 <i>h</i> = .3	<i>z</i> = 0.29 <i>p</i> = 0.77
nifi	icant at .05	



No significant difference in the revenue collected by courts.

City courts are the driving force of holds. In fact, a test of differences in proportions shows that city courts issue holds at a significantly higher rate than their JP counterparts, 1.2 times higher.

The finding of no significant difference between JP courts that do and do not issue holds, for the issuance of warrants is still informative. IF, FTAP holds served as an alternative to warrants, then a negative association should be seen.

THE VARIATION IN LOST EARNINGS

402,277 expired licenses w/a FTAP hold(s)

X

\$12,700.00

\$5,108,917,900.00



FINDINGS: QUESTION 4 (CITIES)

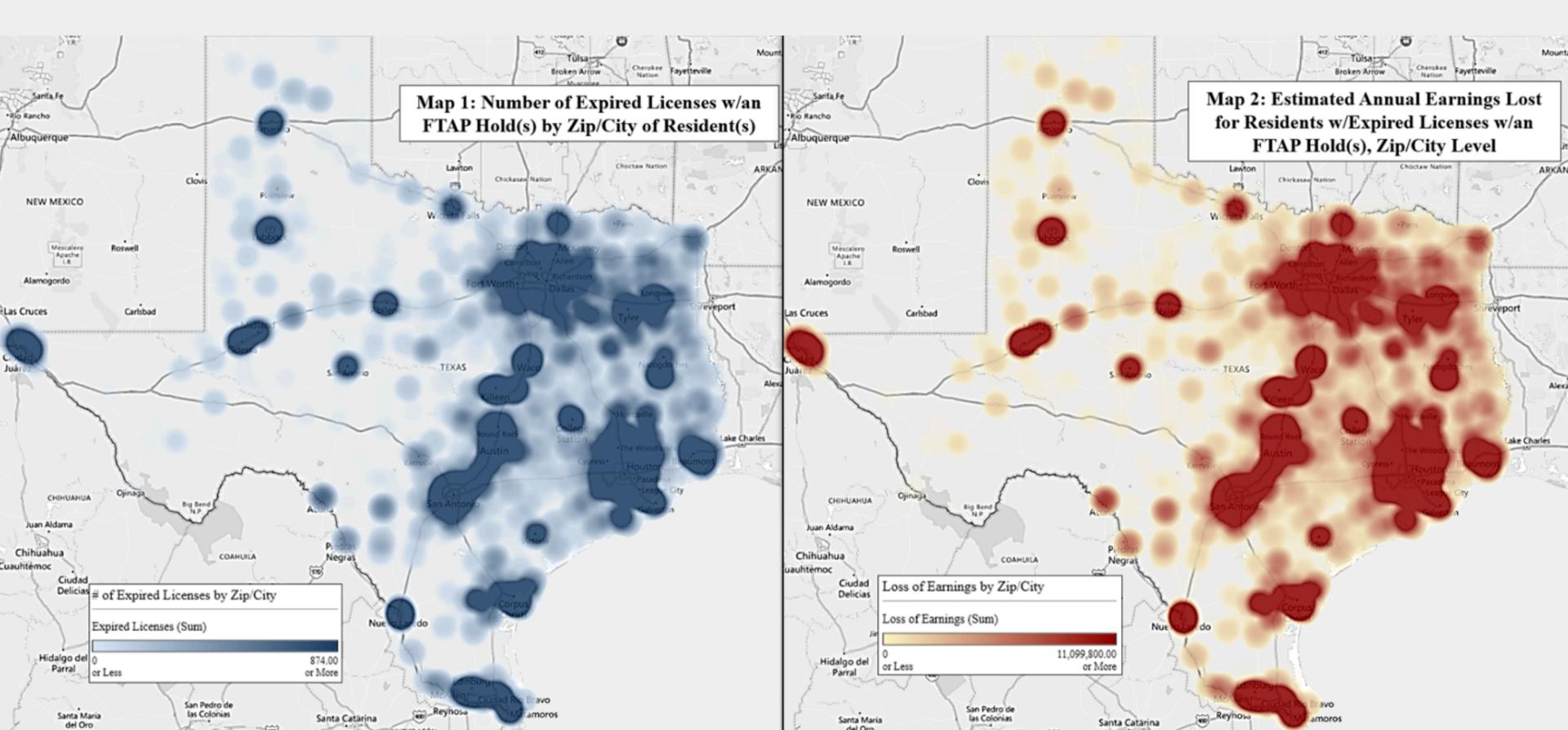


Table 6: Top 10 Cities with the Most Expired Licenses and Lost Earnings Under the FTAP Program			
City of Resident(s)	Number of Expired Licenses with an FTAP Hold(s)	Estimated Earnings Lost (Annually)	
Houston	49,396	\$627,329,200.00	
Dallas	35,136	\$446,227,200.00	
San Antonio	29,846	\$379,044,200.00	
Austin	15,467	\$196,430,900.00	
Fort Worth	11,314	\$143,687,800.00	
Corpus Christi	8,464	\$107,492,800.00	
El Paso	5,834	\$74,091,800.00	
Arlington	4,716	\$59,893,200.00	
Laredo	4,576	\$58,115,200.00	
Waco	4,413	\$56,045,100.00	

FINDINGS: QUESTION 4 (COUNTIES)

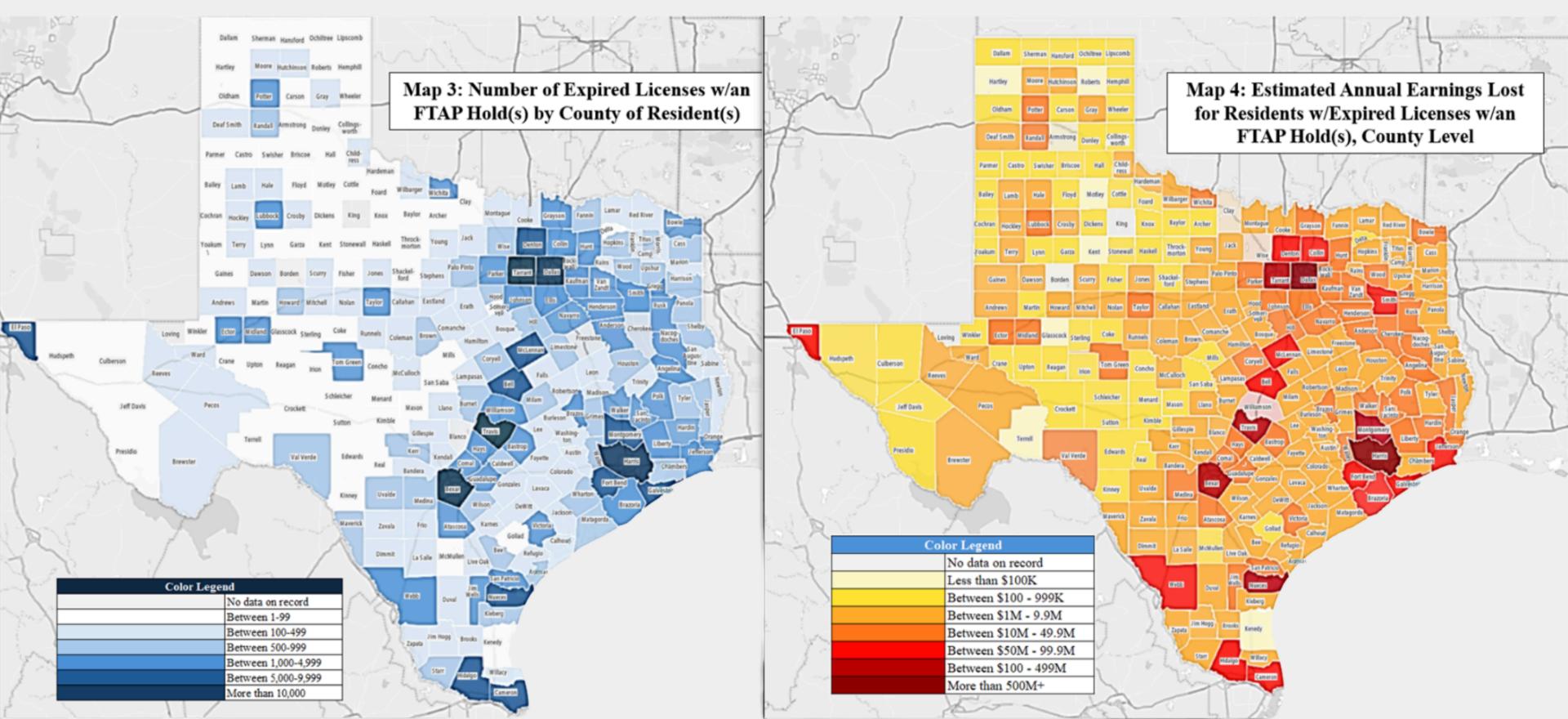


Table 7: Top 5 Counties by Legend Category with the Hig		
Legend Category	Top 5 Counties	
	Roberts*	
	Terrell [*]	
Less than \$100K	Hartley*	
	Kenedy*	
	Motley*	
	Kimble [*]	
Between \$100 – 999K	Parmer [*]	
	San Saba [*]	
	Swisher*	
	Real [*]	

ghest Earnings Lost

Estimated Earnings Lost (Annually)

\$76,200.00

\$76,200.00

\$88,900.00

\$88,900.00

\$88,900.00

\$889,000.00

\$889,000.00

\$901,700.00

\$952,500.00

\$990,600.00

Table 7 cont: Top 5 Counties by Legend Category with the Highest Earnings Lost

Legend Category	Top 5 Counties
	Limestone*
	Caldwell
Between \$1M – 9.9M	Upshur
	Harrison
	Wharton
	Gregg
Between \$10M – 49.9M	Angelina [*]
	Lubbock
	Ellis
	Ector

Estimated Earnings Lost (Annually)

\$9,004,300.00

\$9,029,700.00

\$9,575,800.00

\$9,817,100.00

\$9,982,200.00

\$37,020,500.00

\$39,789,100.00

\$40,246,300.00

\$40,754,300.00

\$41,313,100.00

Table 7 cont: Top 5 Counties by Legend Category with the Highest Earnings Lost

Legend Category	Top 5 Counties
	El Paso
	Galveston
Between \$50M – 99.9M	Fort Bend
	Hidalgo
	Bell
	Montgomery
	Nueces
Between \$100 – 499M	Travis
	Tarrant
	Bexar

Estimated Earnings Lost (Annually)

\$79,794,100.00

\$86,194,000.00

\$86,614,000.00

\$87,871,300.00

\$92,011,500.00

\$106,197,400.00

\$120,269,000.00

\$217,601,800.00

\$261,118,600.00

\$407,581,100.00

Table 7 cont: Top 5 Counties by Legend Category with the Highest Earnings Lost

Legend Category	Top 5 Counties
More than 500M+	Dallas
	Harris

Estimated Earnings Lost (Annually)

\$706,259,700.00

\$814,349,400.00

- earnings.

 If all holds were resolved, courts across the state stand to collect roughly \$14.7M, which pales in comparison to the \$5.1B in lost

 Rural communities are not exempt, many are losing hundreds of thousands if not millions of dollars.

• A loss in one's earnings is a loss for Texas' economy.



LIVITATIONS OF THE STUDY

state activity ftap inactive system number licenses hold data individual total hold data dps active program practice reported pending case impacted case people impacted COULT warrant collection outcomes reporting underlying drivers resolved discrepancy fines agencies eligible ensuring even responsible questions accuracy



population ost source

BENEFITS OF INDIVIDUAL LEVEL CASE DATA

Allows for investigators to address discrepancies in the data.

Ensures that precise measurements are available for analysis.

Allows for higher level inferential analysis.

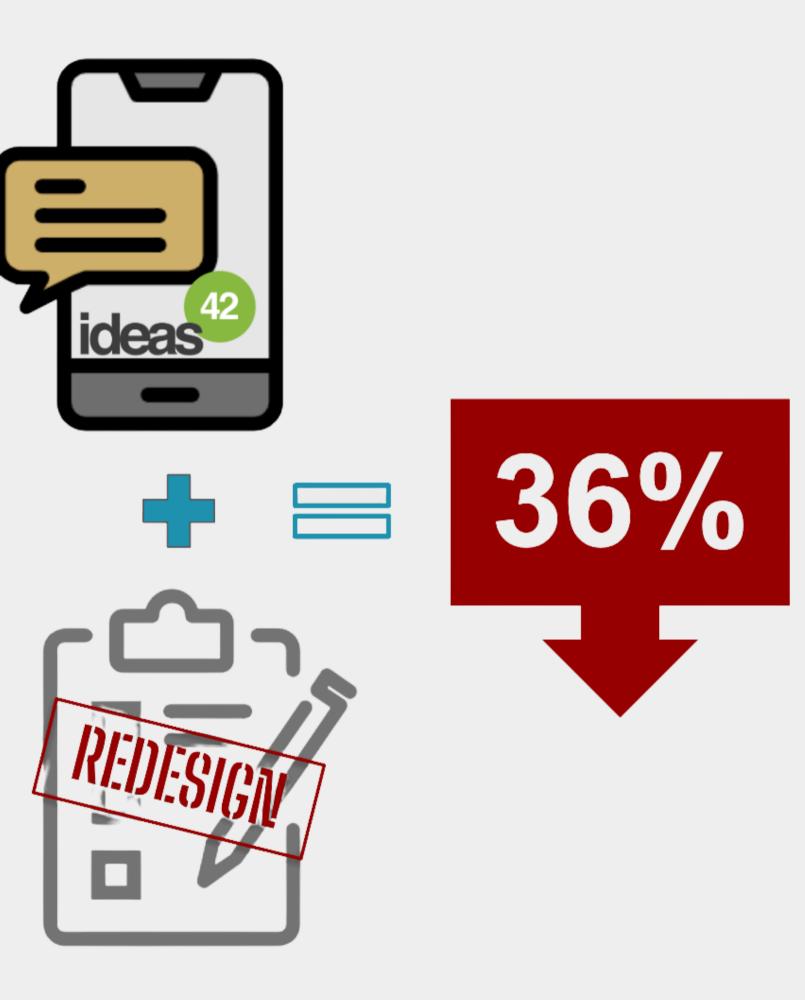
<u>HB 1182</u>

<u>HB 841</u> **REQUIRES INDIVIDUAL LEVEL** CASE DATA BE COLLECTED, MANAGED, REPORTED.

OFFERS DELINEATED VARIABLES FOR COLLECTION/REPORTING FOR **TRIAL COURTS W/POPULATIONS** OF 1M OR MORE.

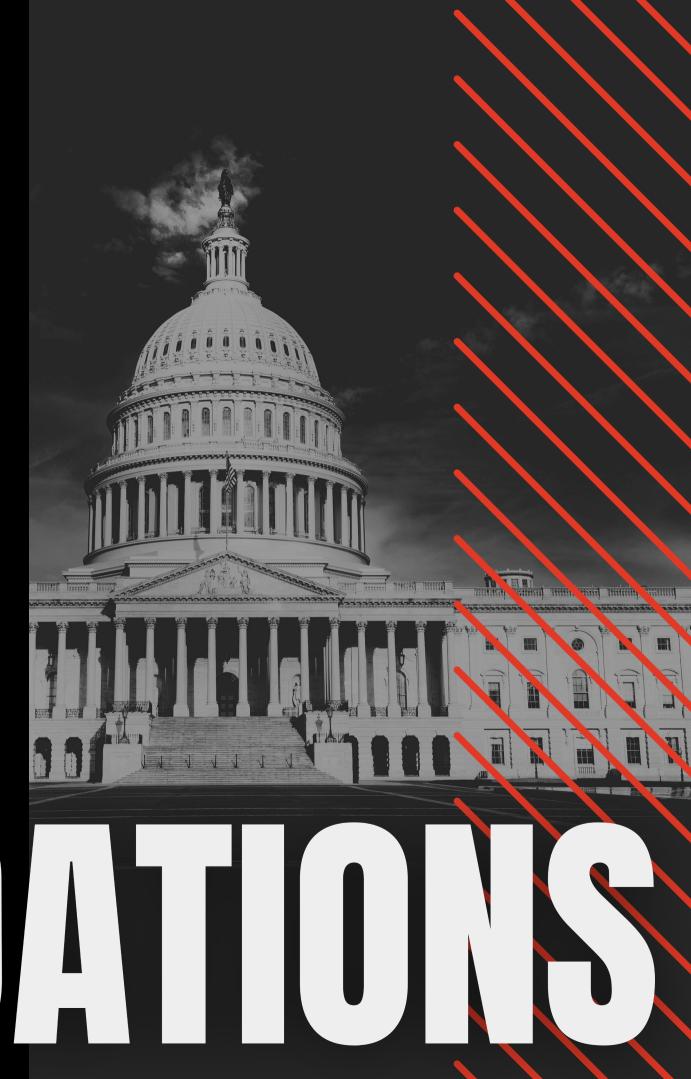
> <u>\$6M</u> TO REPLACE THE **LEGACY DATA SYSTEM**

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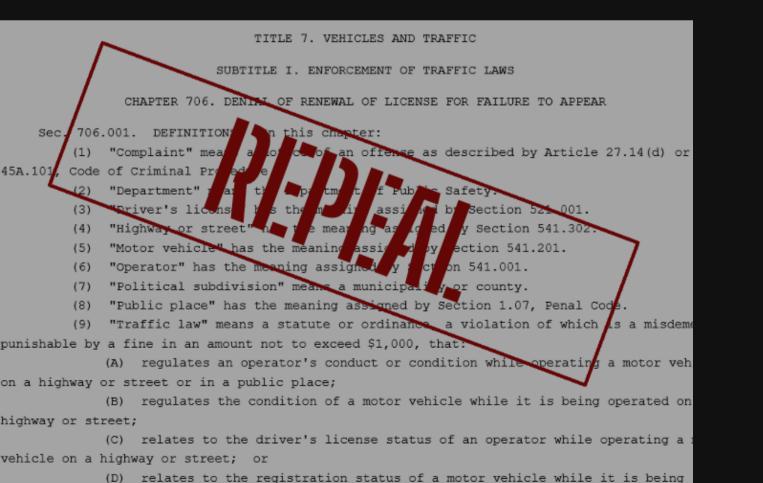


- Repeal the FTAP program and lift all existing holds.
- 2 Encourage/incentivize the use of alternatives to payment currently allowed by law (e.g., waivers, payment plans, community service, jail-credit).
- 3 Encourage/incentivize buy-in to the state's text messaging reminder system. ets).
- Create a uniform and client-friendly citation/court summons form for all jurisdictions to use.
- Explore additional tools that could be digitized for the purpose of efficiency and accurate data collection/reporting (e.g., e-tickets).





IN CONCLUS When you're free to drive, you're free to work.



Let's repeal the FTAP program.

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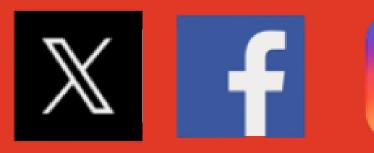


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FAILURE TO APPEAR/PAY PROGRAM



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