



# TEXAS DEPARTMENT OF PUBLIC SAFETY FAILURE TO APPEAR PROGRAM

**As a result of nonpayment of fines associated with certain violations, political subdivisions and the State of Texas have encountered a significant loss of revenue.**

**The TDPS offers a solution to serve the political subdivisions by denying the renewal of a driver license for failure to appear or failure to pay or satisfy a judgment ordered by a court. It is estimated that between 95 and 98 percent of the FTA offenders will comply with the political subdivisions that contract with the Department.**

The intent of the Failure to Appear Program is directed toward a system that requires the violator to appear before the originating court for a final disposition. This pamphlet identifies the sequence of events designed to bring both traffic and non-traffic violators to justice.

During the 74th Legislative Session, Senate Bill 1504, Texas Transportation Code, Chapter 706 (formerly Vernon's Civil Statute, 6687d), authorized the Department to contract with political subdivisions to deny the renewal of an individual's driver license for failure to appear on certain traffic violations.

In the 76th Legislative Session, House Bill 2802 amended the Texas Transportation Code, Chapter 706, to include all offenses for which the violator fails to appear, that are within the jurisdiction of the court. The main provisions of the bill are as follows:

- Authorizes the Department to contract with a private vendor to implement the system.
- Requires the political subdivision to compensate the private vendor for service delivered under the provisions of this bill (prohibits the use of state funds to compensate a private vendor).
- Provides for an administrative fee of \$30.00 for each offense.
- Establishes immunity from suit and damages for the state and political subdivisions.
- Authorizes the Department to adopt rules to implement the provisions of the bill.
- Requires the peace officer to give notice of the sanction at the time a citation is written.
- Applies to offenses that occur on or after September 1, 1999.

During the 77th Legislative Session, Senate Bill 1371 further amended the Texas Transportation Code to include offenses for which an individual fails to pay or satisfy the judgment of a court order. This amendment expands the scope of the program and gives the court greater flexibility. These provisions were effective September 1, 2001.

During the 78<sup>th</sup> Legislative Session, Senate Bill 782 further amended the Texas Transportation Code to include any offense that a court has jurisdiction of under Chapter 4, Code of Criminal Procedure. This provision was effective June 18, 2003.

Chapter 706 of the Texas Transportation Code applies to all offenses that fall within the municipal or county court's jurisdiction, including both **traffic** and **non-traffic** violations. **Traffic violations** regulate a driver's conduct or condition while operating a motor vehicle, or the condition of a motor vehicle while it is being operated on a street, road or highway. **Non-traffic violations** are those usually found in the Penal Code of Texas and associated state laws and city ordinance.

**Required Warning on Citations for Traffic Law Violations:**

A peace officer authorized to issue citations within the jurisdiction of the local political subdivision shall issue a written warning to each person to whom the officer issues a citation for a traffic law violation. This warning shall be provided in addition to any other warnings required by law. The warning must state in substance that if the person fails to appear in court for the prosecution of the offense, or fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person's driver license. The written warning may be printed on the citation or on a separate document.

**Warrants:**

It is currently estimated that as few as 25 percent of warrants issued are brought to final disposition. This means that over one and three quarter million offenders are ultimately not brought to justice.

The FTA Program does not require a warrant to be issued in response to a person's failure to appear. Whether a political subdivision issues a warrant or not is irrelevant to an offense being accepted into the FTA system. It is the opinion of the political subdivision whether or not to continue issuing warrants. However, the warrant fee can only be enforced if a warrant is issued. Some courts have decided to issue a warrant in addition to entering an individual into the FTA system, while others have stated they will no longer issue warrants.

**Program Summary**

**Court Requirements:**

A contract between the Texas Department of Public Safety and a political subdivision must be in effect to implement the provisions of Texas Transportation Code, Chapter 706. The Contract shall automatically renew on a yearly basis, absent notification of non-renewal. However, either party may terminate this Contract by notifying the other in writing thirty (30) days prior to the expiration date of intentions not to renew the Contract. After termination, the local political subdivision has a continuing obligation to report final dispositions and collect fees for all violators in the FTA system at the time of termination.

In order to have a violator entered into the FTA system, political subdivisions must electronically send a FTA report with the following information:

- Name of the political subdivision submitting the report
- Name and date of birth
- Texas Driver License number (Texas Identification Card number unacceptable)
- Address
- Offense(s) and date(s)
- Brief description of the alleged violation

- Fine amount
- Docket number and jurisdiction
- Statement that the person failed to appear or failed to pay or satisfy a judgement
- Date that the person failed to appear or failed to pay or satisfy a judgement

The \$30.00 administrative fee should be included in the reported court fee in order to provide accurate fine information to the violator.

It is the responsibility of all political subdivisions to provide accurate, complete and non-duplicative information.

**Vendor Services:**

The Texas Department of Public Safety has contracted with OmniBase Services of Texas, LP to assist with the automation of the FTA Program. OmniBase will be utilized as the source database of original FTA record entries from the political subdivisions. This automated information system accurately stores and accesses records that will be made available to the Department.

OmniBase will maintain records on each person after compliance for five years and indefinitely on those who do not comply. This contractor will also maintain accessible customer support services, including a toll-free telephone line to answer and resolve questions from persons who are subject to denial of their driver license.

OmniBase will provide and maintain complete and accurate records on all transactions with political subdivisions and the Department. Data collected from any political subdivision, including the Department, shall be considered confidential and such data shall be used only for the purposes established in the contract.

OmniBase will provide the necessary protocol for using electronic methods and software to the political subdivisions at no cost.

OmniBase will mail the initial letter to the offender on modified Department letterhead. It lists the court name, offense date, docket number, outstanding offense description, fines, costs, and fee amount, the originating court's address and telephone number, a toll-free number for inquiries, as well as sanctions for non-compliance.

**Clearance Requirements:**

Within 5 business days, an originating court should provide clearance information on the reported violator to the Vendor. All information will be entered on a computer and uploaded to the Vendor. If final disposition is received, it should be provided in the following manner:

- Name
- Texas Driver License number
- Docket number
- Plea
- Disposition

- **Penalty**

All clearance information must be transmitted within 5 business days of the time and date that the originating court receives compliance or other information that satisfies the individual's obligation to appear in the originating court.

A \$30.00 administrative fee will apply to each FTA offense. Twenty dollars (\$20.00) of each fee collected will be sent to the State Comptroller's office on or before the last day of the month following the end of the calendar quarter. The local political subdivision must pay the Vendor a fee of six dollars (\$6.00) for each offense that has been reported to the Vendor. The remaining four dollars (\$4.00) will be retained by the political subdivision.

In the event that the individual is acquitted of the underlying charge, then no payment will be made to the State or the Vendor. In the event that court costs and fees are not received by the local political subdivision (e.g. if the court rules an individual as indigent or the individual dies) then no payment will be made to the State or the Vendor. If an individual is ordered to pay court costs and fees, but is not assessed a fine, payment to the Vendor is still required.

Timely payment must be made by the local political subdivision to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the local political subdivision.

**DPS Services:**

Once information has been transmitted to the Vendor, a data cartridge tape is produced and delivered to DPS. The tape contains all entries as well as final dispositions that have occurred since the previously delivered tape.

Upon receipt at DPS, the FTA data cartridge is downloaded into the mainframe computer. The Department will perform an edit against all driver records and all erroneous data will be rejected and returned to the political subdivision for correction. All accepted data will automatically turn on a FTA flag for the appropriate driver record.

In lieu of a driver license renewal notice, the Department will notify FTA offenders by letter and inform the offender that the renewal of his/her license will be denied. In addition, the letter will provide the toll-free number for compliance information and will inform the offender of the consequences of driving while license invalid (DWLI). (See Transportation Code §521.457.)

If the FTA offender should go to the Driver License office to renew their license, after receiving notice of denial, they will be issued a sixty day temporary permit. If the offender inquires about outstanding FTA citations, the clerk will refer the offender to the toll-free number provided by the vendor.

Upon receipt at DPS headquarters, renewal requests with outstanding FTA citations will be withheld from the license manufacturing process. The renewal request is updated on the basic screen and the driver record is marked, "DENY RENEWAL LTR #2-FTA".

The Department will generate a second letter to the FTA offender that will inform the offender that his/her driver license will not be renewed because of outstanding FTA citations. In addition, the letter will inform the offender that upon the expiration of the temporary permit, all driving privileges will be denied. The letter will provide the toll-free number for compliance information; inform the offender of the driving while license invalid (DWLI) consequences, and inform him/her that upon compliance, the driver license will be produced and mailed.

After compliance is received, an automated process will be utilized to produce a driver license and the record will reflect "COMPLIANCE RECEIVED-FTA". The driver license is then mailed to the individual.

If a person does not comply and/or the person does not attempt to renew their license (including offenders who attempt to renew their license up to one year prior to the expiration), upon sixty days after the expiration of the driver license or the issuance of a temporary permit, whichever comes first, a third letter will be generated to notify the individual that he/she is officially denied renewal of his/her driver license. The Department will simultaneously update the driver record to reflect "DENY RENEWAL-FTA". The FTA offender will then fall under the existing DWLI statutes if found operating a vehicle.

## **Technical Overview**

### **Equipment and Software Requirements:**

Participation in the FTA program requires the participating jurisdiction to have an appropriate computer. For other than a few large jurisdictions, participation requires a Windows 95, Windows 98, Windows NT, or later version of a Windows operating system, and an IBM PC or compatible with a minimum 486 processor, 16 megabytes of Random Access Memory, 500 megabyte or larger hard drive, and a compatible modem. The Vendor will provide the software necessary for the jurisdiction to participate in the FTA Program, at no charge. The software is referred to as Remote Entry System (RES) software.

If the jurisdiction uses a third-party court software vendor, (i.e., OCA, CSI, HCS, etc.) the court software vendor's application will manage the database, do the reporting of offenses, make corrections on denied/rejected records and export them to RES. Accordingly, the jurisdiction may be able to avoid the double entry of violations and only use RES for the transmission of the offenses to the Vendor.

The jurisdiction will use its computer to upload data through a modem to the Vendor's server. Each business day, the Vendor will download the data received from jurisdictions and export the data to a 3480 data tape. The tape is delivered to DPS daily where it is processed against driver license records. After processing, DPS provides confirmation or a rejected status of the records that were transmitted the previous day. The Vendor retrieves the daily tapes and processes the confirmations and rejections into the Vendor database server for the jurisdiction to download the next time the jurisdiction transmits.

RES will report all records rejected by DPS. The jurisdiction may correct and retransmit the records that were rejected.

An alternative means of transmission may be available to large jurisdictions that have a mainframe or server and are expecting to transmit a large volume of cases each day. These systems may either use the RES system or transmit records directly to the Vendor server by modem or the Internet. This alternative would probably require special programming by the jurisdiction and would be at the jurisdiction's own expense.

This summary is intended to provide a general description of the technical application of the Failure to Appear Program. For more specific information on the technical systems, jurisdictions may contact the vendor, OmniBase Services of Texas, LP, at (512) 346-6511.