



## Texas Fair Defense Project Bills

### 2021 Legislative Session

#### 1. Freedom to Drive: HB 4191 (Sanford)

- **Reform the OmniBase program:** Under the OmniBase program, courts put holds on the driver licenses of people who miss a court date or fail to pay their fines and costs. Our bill would reform the program so that people can get their licenses back if they appear in court, make an effort to take care of their fines, or demonstrate that they are unable to pay. It would also allow judges more discretion to lift holds, and would implement a maximum time period of ten years.
- **Reduce testing wait times at licensing office:** After the repeal of the DRP last session, hundreds of thousands of Texans had their suspensions lifted only to discover they needed to retake their driving tests because their license had been expired for more than 2 years. In Louisiana, you may renew without retesting after expiration upon payment of a \$15 late fee. Texas should do the same, but with a \$20 fee for up to 10 years.
- **Clean up past legislation:** Last session, the Legislature unanimously passed HB 162 (White/Zaffirini), which lowered departmental suspension periods from two years to 90 days. These suspensions trigger whenever somebody pleads to a ticket that indicates that they drove during a suspension period – effectively punishing people for taking care of their tickets. This bill would make HB 162 retroactive. This section of the Freedom to Drive bill relating to departmental suspensions has also been filed as **SB 822 (Zaffirini)** and **HB 3451 (White)**.

#### 2. Ending automatic license suspensions for drug convictions: SB 181/SCR 1 (Johnson) and HB 556/ HCR 4 (White)

- **End automatic license suspensions for drug convictions:** Due to an old federal mandate called the Solomon-Lautenberg Amendment, Texas automatically suspends licenses upon conviction of any drug offense. Currently, 46 states have used the federal mandate's opt-out provision to repeal or severely limit their suspension statutes. This legislation would make license suspensions discretionary rather than automatic and allow people to take the drug course online.

#### 3. Justice Reinvestment: HB 2442 (White)

- **Increase funding and offset probation costs:** TFDP proposes a budget-neutral way to fund supervision services and set people up for success after conviction. This bill would reimburse counties 90 percent of their actual cost savings to the state when they save the state money by sending fewer people to state prison. This will help fund local community supervision and diversion programs, so that supervisees no longer have to pay excessive fees and risk revocation for nonpayment.

#### 4. Fines and Fees: HB 2441 (White), SB 1923 (Zaffirini), HB 569 (Sanford), and SB 192 (West)

- **Increase efficiency and reduce court debt:** **HB 2441 (White)** and **SB 1923 (Zaffirini)** would increase access to indigency waivers by clarifying past legislation and would ensure that ability to pay hearings are done on the record.
- **Increase access to jail credit:** **HB 569 (Sanford)** and **SB 192 (West)** would ensure that anybody who serves jail or prison time for another offense could clear their class C ticket debt with jail

credit from those other offenses. This would help people coming out of jail or prison with warrants and license suspensions for unpaid ticket debt get back on their feet.

#### 5. **Indigent Defense: HB 2446 (Canales), HB 743 (Collier), and HB 277 (Collier)**

- **Ensure client visitation out-of-county:** Some counties hold pretrial defendants in jails over a hundred miles away from the court where their case is in, which is usually where their lawyer is based. **HB 2446 (Canales)** would compensate court-appointed attorneys' out-of-pocket expenses incurred by interviewing clients housed far away from their trial court.
- **Support counties in providing constitutional indigent defense representation: HB 743 (Collier)** would direct TIDC to create caseload standards for court-appointed attorneys. It would prevent the State from enforcing those standards against counties that received less than half of their indigent defense funding from State money.
- **Clarify when the right to counsel attaches:** In 2008, the United States Supreme Court in *Rothgery v. Gillespie County* determined that Texas Code of Criminal Procedure article 1.051(j) means that the right to counsel attaches when a defendant is first magistered. Confusing and unenforceable text remains in statute, leading to delay in appointing counsel for indigent defendants. **HB 277 (Collier)** would conform the Code to the U.S. Constitution, and clarify when indigent arrestees are entitled to appointment of counsel.

#### 6. **George Floyd Act: HB 88 (Thompson, S.)**

- **Support the George Floyd Act and other police reform legislation:** TFDP supports the George Floyd Act and other legislation that will prevent police violence and hold officers accountable for misconduct. These pieces of legislation would end qualified immunity, require proportional use-of-force guidelines, institute a duty to intervene, ban arrests for non-jailable offenses, among other changes and reforms. TFDP is also supporting the standalone bill **HB 830** (Thompson, S.), which would end the practice of warrantless arrests for non-jailable offenses.

#### 7. **Clean Slate: HB 3601 (Leach) and 2684 (Canales)**

- TFDP is part of the Clean Slate Texas Coalition, which is working to help people with criminal records get a fresh start by expanding eligibility for expunctions and non-disclosures with **HB 2684 (Canales)** and by automating the non-disclosure process with **HB 3601 (Leach)**.
- TFDP also supports **HB 3547** (Allen), **HB 109** (Canales), **HB 1332** (Canales), **HB 1394** (White), **HB 1104** (Dominguez), **HB 45** (Johnson), **HB 309** (Collier), **HB 870** (Thompson, S.), and **HB 1203** (Wu).

#### 8. **Pretrial Reform**

- Pretrial release should be the norm, not the exception. TFDP supports legislation that would reduce pretrial detention rates, promote the use of personal bonds, and safeguard the legal presumption of innocence by requiring courts to use the least restrictive means necessary to ensure appearance in court and public safety and will fight legislation that runs counter to these goals.