

# TEXAS JUSTICE COURT TRAINING CENTER



# REPORTING REQUIREMENTS GUIDE FOR JUSTICE COURTS

2019 Edition



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Texas Justice Court Training Center  
in conjunction with the  
Texas Department of Transportation  
presents

# **REPORTING REQUIREMENTS GUIDE FOR JUSTICE COURTS**

Published by the Texas Justice Court Training Center, affiliated with Texas State University  
Prepared by the TJCTC Legal Department

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# **INTRODUCTION**

This booklet was designed pursuant to a grant from the Texas Department of Transportation. It is our hope that it will help justice courts to fulfill the reporting duties and obligations placed upon them by Texas law. If you have suggestions for the next edition, please contact the Training Center.

The guide is organized chronologically by the type of event that precipitates the required reporting obligation.

## **FAILURE TO APPEAR IN A CRIMINAL CASE**

The first type of event that may occur in a criminal case that may trigger a reporting requirement is a defendant's failure to appear. However, whether a justice court is obligated to report a failure to appear depends on a number of factors, including the offense with which the defendant is charged. Below, we discuss the scenarios your court may face when a defendant fails to appear in a pending criminal case.

### ***"OMNI" Reporting***

When a defendant has been charged with any criminal offense in your court, but fails to appear in accordance with a citation or summons, the most common form of reporting is through the automated OMNIBASE system (commonly referred to as "OMNI") associated with the Department of Public Safety's Failure to Appear Program. DPS may deny driver's license renewal for any defendant who fails to appear and is properly reported to the OMNI system (*see Section 706.004(a), Transportation Code*).

In order to use the OMNI reporting system, your county must first enter into a contract with DPS (*see Section 706.004(a), Transportation Code*). Once your county has contracted with DPS to use the OMNI system, you may, but are not required to, report any defendant who fails to appear in your court based on a complaint or citation. (This language means that this type of OMNI report is only available if a defendant fails to appear prior to disposition of the charged offense. Do not create a failure-to-appear OMNI report based on failure to appear for a show-cause hearing or failure to comply with a post-judgment order of the court.)

A report must include the following information:

1. the name, date of birth, and driver's license number of the defendant;
2. the nature and date of the alleged failure to appear;
3. a statement that the person failed to appear as required by law in a matter involving an offense described by Section 706.002(a), Transportation Code; and
4. any other information required by DPS.

A justice court must immediately notify DPS once the defendant has paid the required \$30.00 administrative fee (or had it waived due to a finding of indigence pursuant to 706.006(d), which was added in 2017), AND one of the following occurs:

1. the defendant perfects an appeal for the case;
2. the charge is dismissed (other than a dismissal with prejudice by motion of the prosecuting attorney for lack of evidence);

3. the defendant posts a bond or gives other security for their appearance in the case moving forward;
4. the defendant pays or discharges the fine and cost owed on the judgment (once a judgment is entered); OR
5. the defendant makes other suitable arrangement to pay the fine and cost within the court's discretion (such as a payment plan or community service).

The defendant shall be removed from OMNI without paying the \$30.00 administrative fee if:

1. the defendant is found not guilty of the charge for which he was initially ordered to appear;
2. the charge on which the defendant failed to appear was dismissed with prejudice by motion of the prosecuting attorney for lack of evidence (this was added in 2017);
3. the initial report of the defendant's failure to appear was in error; or
4. the failure to appear report has been destroyed in accordance with the county's records retention policy.

*(see Sections 706.005 and 706.006, Transportation Code.)*

Chapter 706 of the Transportation Code does not specifically authorize or require justice courts to collect the \$30.00 administrative fee listed in Section 706.006. However, it is our understanding that the contracts between participating counties and DPS contemplate the collection of this administrative fee by individual courts.

If a case is pending in county court after an appeal has been perfected and the defendant has not already paid the \$30.00 fee, it would make sense for the county court to then be responsible for collecting the fee and notifying DPS if and when the defendant pays it. However, if the county court sends the defendant to the justice court to pay the fee, we believe that it is fine for the justice court to go ahead and accept the fee and notify DPS as described above.

If your court does collect the administrative "OMNI fee," Section 706.007 of the Transportation Code states that your court "shall keep records and deposit the money as provided by Subchapter B, Chapter 133, Local Government Code."

(Please note that a defendant may also be reported to OMNI for failure to satisfy the terms of a judgment. This type of reporting is discussed on page 14 of this guide.)

## ***Failure to Appear When the Defendant Is Charged With an Offense Listed In Chapter 521 of the Transportation Code***

If the defendant is charged with a traffic offense listed in Chapter 521 (for example, no driver's license) and fails to appear, your court is required to report the failure to DPS. The court is also required to report to DPS again on final disposition of the case (*see Section 521.3452, Transportation Code*).

The language of the statute indicates that such reporting may be accomplished by submitting a report via OMNI or by submitting the information directly to DPS using an appropriate administrative form.

Upon receiving a report pursuant to Section 521.3452, DPS **may deny renewal** of the defendant's driver's license under Section 521.317 or Chapter 706 of the Transportation Code. DPS **shall not issue** any license to a person who has been reported by a court under Section 521.3452 for failure to appear unless the court has filed an additional report on final disposition of the case.

Please note that the information in this section has changed as a result of laws passed during the 2017 Regular Legislative Session.

## ***Failure to Appear By a Juvenile***

If a defendant fails to appear (or defaults in payment of a fine after conviction) for a fine only misdemeanor charge and they were under 17 at the time of the alleged offense, your court may choose, but is not required, to report them to DPS (*see Section 521.201(8), Transportation Code*). But note that reporting is not optional and the defendant must be reported if the defendant failed to appear on a Ch. 521 offense as describe above. If the court reports the defendant, the court must also report to DPS again on final disposition of the case.

This report is a separate procedure from OMNI and should be made directly to DPS. You might choose this option instead of reporting through OMNI if the juvenile does not have a driver's license (a defendant must have a driver's license to be reported through OMNI). Upon receiving a report described by Section 521.201(8), DPS may not issue any license to the defendant unless the court has filed an additional report on final disposition of the case.

Previously, Section 521.294 of the Transportation Code allowed a justice court to report a defendant ages 14-16 for failure to appear, and DPS was required to revoke their license. This statute was repealed in 2017, so this option is no longer available.

# DISPOSITION OF A CHARGED CRIMINAL OFFENSE

The second event that may trigger a reporting requirement is the court's disposition of a case. The court's obligation to report varies depending on the type of case, the procedure used to dispose of the case, and specific reporting requirements for certain offenses. Below, we discuss the scenarios a justice court may face when reporting the disposition of a case.

## ***General Reporting Requirements (Traffic)***

Section 543.203 of the Transportation Code requires a justice court to report a conviction (or forfeiture of bail) for "a law regulating the operation of a vehicle on a highway" to the Department of Public Safety. The definition of "highway or street" is "the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel" (*see Section 541.302(5), Transportation Code*). This would mean that reporting is required for any convictions (or forfeiture of bail) for a violation of a law regulating the operation of a motor vehicle on a public roadway. The report to DPS must be made not later than seven days after the conviction. Furthermore, the report to DPS shall include the following information:

1. the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
2. the registration number of the vehicle involved;
3. whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
4. the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
5. the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
6. whether a search of the vehicle was conducted and whether consent for the search was obtained;
7. the plea, the judgment, whether the individual was adjudicated under Article 45.0511, Code of Criminal Procedure, and whether bail was forfeited;
8. the date of conviction; and
9. the amount of the fine or forfeiture.

When reporting a conviction, the court may also *recommend* suspension of the person's driver's license in accordance with Chapter 521, Subchapter N (*see Section 521.347(b), Transportation Code*).

The seven day reporting requirement also applies when the defendant fails to comply with the terms and conditions of a deferred disposition order issued pursuant to Article 45.501 of the Code of Criminal Procedure, regardless of the offense, and is subsequently convicted (*see Section 543.204, Transportation Code*).

However, neither the order of deferral nor the order of dismissal on successful completion of the deferral should be reported to DPS unless specifically required by another statute.

Please note that that in addition to the basic reporting requirement for all traffic-related criminal offenses, several statutes explicitly require a conviction or other disposition to be reported to DPS. DPS could potentially require additional information from the justice court in these cases. We recommend that you contact the Enforcement and Compliance Services Division of DPS for further information.

### ***General Reporting Requirements (Non-Traffic)***

DPS has advised us, and we agree, that justice courts are NOT required to report the disposition of every criminal case pursuant to Article 60.08(c) of the Code of Criminal Procedure. So justice courts do NOT have a general reporting obligation for all dispositions (dismissal, conviction, or acquittal) of all criminal cases.

There are, however, several additional reporting requirements (in addition to the general traffic case reporting requirements discussed above) which may be triggered when the court disposes of a case. The various triggers and the corresponding requirements are discussed below.

### ***Conviction: Reporting Related to Automatic License Suspension***

Several offenses under Texas law, including a few fine-only offenses, require the Department of Public Safety to immediately suspend the defendant's license upon receiving notice of the defendant's conviction. In order for DPS to be able to do this, courts must report to DPS when they have entered a conviction that results in an automatic suspension. In justice court, these offenses include Theft of Motor Fuel (*Section 521.349, Transportation Code*) and Fictitious License, Plates, Registration, Inspection, and/or Insurance (*Section 521.346, .3465, Transportation Code*).

If the defendant is convicted of any offense which requires automatic suspension under Chapter 521 or 522 of the Transportation Code, the court may order the defendant to surrender his or her driver's license to the court. Once the defendant's license has been surrendered, the court must send the license, as well as "a record of the conviction that states whether the

vehicle involved in the offense was a commercial motor vehicle as defined by Chapter 522 or was involved in the transport of hazardous materials,” to the Department of Public Safety within 10 days of the surrender (*see Section 521.347(a), Transportation Code*).

### ***Conviction: Additional Reporting Requirements***

As discussed above, in addition to general reporting requirements, several Texas statutes have specific reporting requirements for convictions of individual offenses. These offenses include:

- No Driver’s License: Section 521.025, Transportation Code;
- Operating or Loading Overweight Vehicle: Section 621.506, Transportation Code;
- Any offense relating to the misuse of a permit authorizing a commercial motor vehicle to operate under excess weight: Section 623.019, Transportation Code; and
- Any offense under Chapter 623, Subchapter D of the Transportation Code relating to the use of heavy equipment: Section 623.082, Transportation Code; and
- Engaging in or soliciting the transportation of household goods for compensation while not being registered as required by Ch. 643, Subchapter B of the Transportation Code: Section 643.253, Transportation Code.
  - This reporting requirement was added in the 2019 Regular Legislative Session and only applies to offenses committed on or after 9/1/19.

Because reporting methods are set by the Department of Public Safety and are subject to change, we recommend checking with DPS periodically to determine if a particular form needs to be used for reporting any offense which lists a specific reporting requirement (this could be in addition to the general form in the case of a traffic offense).

### ***Dismissal: Reporting Upon Successful Completion of Diversion Programs***

A handful of statutes make it possible for a justice court to accept a defendant’s plea of guilty, but defer final disposition of the case for a specified period of time. During the deferral period, the defendant must comply with conditions set by the court. If the defendant successfully complies with all conditions and requirements within the specified deferral period, the defendant’s reward is a dismissal of the charged offense. Such dismissals may also trigger reporting requirements for the justice court.

#### **Article 45.051, Code of Criminal Procedure:**

This statute allows a justice court to defer final disposition of a case and require the defendant to comply with certain requirements specified by the court. If a justice court determines “that

the defendant has complied with the requirements imposed by the judge,” then “the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.”

If the complaint is dismissed in this manner, the final disposition **may not be reported** to DPS unless it is required for a particular offense by another statute (*see Section 543.204, Transportation Code*). For example, if a court defers disposition for an offense listed in Section 106.071 of the Alcoholic Beverage Code, the order deferring disposition must be reported (see page 11 of this guide for additional information).

If the defendant fails to comply with the requirements imposed by the court, the defendant may be convicted following a show-cause hearing, and the conviction must be reported within 7 days if it is a type of conviction that requires reporting. See Section 543.203 and 543.204, Transportation Code.

#### **Article 45.0511, Code of Criminal Procedure:**

This statute allows a qualifying defendant to have a charged offense dismissed upon successful completion of a driving safety course. It contains language similar to that found in Article 45.051, but also includes a specific reporting requirement. “When a defendant [completes the driving safety course and submits all required information to the court], the court shall: (1) remove the judgment and dismiss the charge; (2) report the fact that the defendant successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and (3) state in that report whether the course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).”

Taken out of context, subsection (3) in the quoted section above is a bit confusing. A previous subsection of Article 45.0511 indicates that a defendant is automatically eligible to have a citation dismissed by completing a driving safety course if he or she has not previously completed a course (in order to obtain dismissal) within the past year. (Please note that the defendant may still be eligible to have the citation dismissed by completing a driving safety course if he or she has completed a course within the past year, but in that situation eligibility requires the consent of the court.) Therefore, it is important to include accurate information when reporting to DPS so that the next time the defendant commits a traffic offense, the next trial court will have complete and accurate information regarding the defendant's eligibility to have the subsequent citation dismissed by completing a driving safety course.

#### **Article 45.052, Code of Criminal Procedure:**

This statute creates a similar “deferral and dismissal” procedure for defendants who elect to participate in (and successfully complete) a teen court program. Like Article 45.0511, this statute creates a specific reporting requirement. It states: “A charge dismissed under this article may not be part of the defendant's criminal record or driving record or used for any purpose. However, if the charge was for a traffic offense, the court shall report to the Department of Public Safety that the defendant successfully completed the teen court program and the date of completion for inclusion in the defendant's driving record” (*see Article 45.052(d), Code of Criminal Procedure*).

### ***Reporting Requirements Upon Disposition of Alcohol Cases Involving Minors***

Chapter 106 of the Alcoholic Beverage Code addresses reporting requirements when a minor is charged with an age-related alcohol offense. The following dispositions shall be reported to the Department of Public Safety:

1. A conviction of any Chapter 106 offense;
2. An order of deferred disposition for an offense alleged under Chapter 106; and
3. Acquittal of an offense under Section 106.041.

Driving under the Influence by a Minor (*see Article 106.117, Alcoholic Beverage Code*).

DPS promulgates forms to report the dispositions listed above.

Additionally, if a defendant is convicted of any offense punishable by Section 106.071 of the Alcoholic Beverage Code, the justice court shall order DPS to suspend the defendant’s license. The length of suspension is 30 days if the offense is the defendant’s first. The length of suspension increases to 60 days if the defendant was convicted of a subsequent offense (*see Section 106.071, Alcoholic Beverage Code*). This order must be properly reported to DPS so that it may be enforced.

If a minor is convicted or placed on deferred disposition for a first-time, alcohol-related offense, the court must also order the defendant to take an alcohol awareness course or complete additional community service (*see Section 106.115, Alcoholic Beverage Code*). The court also has the option to order a minor to take an alcohol awareness class or complete additional community service if convicted or placed on deferred disposition for a subsequent alcohol-related offense.

If the defendant fails to complete the alcohol awareness course or fails to complete the community service as ordered, the court shall order DPS to suspend (or deny issuance of) the

defendant's license using the appropriate reporting form. The length of the suspension shall be up to six months for a first-time offense, and up to one year for a subsequent offense (*see Section 106.115, Alcoholic Beverage Code*). This order must be properly reported to DPS so that it may be enforced.

### ***Reporting Requirements Upon Disposition of Tobacco Cases Involving Minors***

For offenses committed **before** 9/1/19, when a defendant is convicted of a tobacco offense under Section 161.252 of the Health & Safety Code, the court must:

1. Determine a fine amount not to exceed \$250;
2. Suspend execution of the sentence; and
3. Require the defendant to attend an approved e-cigarette and tobacco awareness program; or, if access to a program is not readily available, require the defendant to perform 8-12 hours of e-cigarette and tobacco awareness related community service.

(*See Section Section 161.253, Health & Safety Code*).

If the defendant does not present evidence of satisfactory completion of the awareness program or community service substitute by the 90<sup>th</sup> day after the date of conviction, the court must execute the sentence and must order DPS to suspend or deny issuance of the defendant's driver's license or permit for a specified period of time, not to exceed 180 days from the date of the order (*see Section 161.254, Health & Safety Code*).

If the court is required to order DPS to suspend or deny issuance of the defendant's driver's license/permit, the court must also report that order to DPS so that it may be enforced.

The law was changed, however, in the 2019 Regular Legislative Session. Now, for offenses committed **on or after** 9/1/19, the fine is only \$100 and the court may NOT order DPS to suspend or deny issuance of the defendant's driver's license if they do not complete the awareness program/community service substitute. So there is no need to report anything to DPS at any point in a tobacco case if the offense was committed on or after 9/1/19.

### ***Reporting Requirements Upon Disposition of Graffiti Cases***

The court may choose, but is not required, to order DPS to suspend or deny issuance/reinstatement of a defendant's driver's license upon conviction of a graffiti offense under Section 28.08, Penal Code (*see Section 521.320, Transportation Code*).

A graffiti offense is a Class C misdemeanor (and so may be heard in a justice court) if the amount of pecuniary loss resulting from the graffiti is less than \$100.

The length of suspension is one year after the date of a final conviction. The length that a license is to be denied issuance is one year after the date the person applies for reinstatement or issuance of a driver's license.

### ***Reporting Requirements Upon Disposition of Family Violence Cases***

A law was passed in the 2019 Regular Legislative Session that created a new reporting requirement for all fine-only misdemeanors involving family violence as defined by Section 71.004, Family Code. Any such offense that is committed on or after 9/1/19 must now be reported to DPS upon disposition of the case (*see Article 66.252(g), Code of Criminal Procedure*).

The court clerk must report the applicable information regarding the defendant's citation/arrest and what the disposition of the case was within 30 days of disposition. The report must be made using a uniform incident fingerprint card (*see Article 66.251, Code of Criminal Procedure*) or through an electronic method approved by DPS.

### ***Reporting to the Federal Immigration and Customs Enforcement Division***

It is a common misconception that convictions for fine-only offenses need to be reported to the federal Immigration and Customs Enforcement division of the Department of Homeland Security. Such reporting is only required when a known illegal alien is convicted of a felony offense (*see Article 2.25, Code of Criminal Procedure*).

While reporting convictions in justice court to ICE is not required or encouraged by TJCTC, reporting is certainly not prohibited. However, inquiring into a particular defendant's immigration status may raise ethical issues for a justice court. We recommend contacting the Commission on Judicial Conduct to discuss some of these ethical issues if you wish to report suspected illegal aliens who are convicted in your court to Immigration and Customs Enforcement.

### ***Reporting When a Conviction Has Been Appealed***

What do you do if a conviction that requires reporting has been appealed?

If you have not yet sent the report, then don't send it. When a conviction is appealed in justice court, it ceases to exist. So once an appeal is perfected, there is no conviction for you to report anymore.

If an appeal is perfected after you have already sent a report, then submit a correction form or ask the division you have submitted the report to for directions on how to correct the report. In the correction, state that the case has been appealed.

## **POST-DISPOSITION IN A CRIMINAL CASE**

Even though a case has been disposed of and reported to the appropriate state agency, the justice court's reporting obligations have not necessarily ended. Additional reporting requirements may arise when a defendant fails to satisfy the terms of the court's judgment. Additionally, the justice court has obligations to report on the fines, fees, and court costs it collects on behalf of the state and county from defendants. Below, we discuss your responsibilities when such requirements arise.

### ***Reporting Requirements when the Defendant Fails to Satisfy the Judgment***

If a defendant fails to pay a fine and costs as ordered by the justice court's written judgment, the court may act to compel the defendant to discharge the fine and costs. The court may do this by issuing a *capias pro fine* (after complying with the new notice requirements added in 2017), sending the defendant to collections, reporting the defendant to OMNI, or—if the offense was committed while the defendant was a juvenile—proceeding under Article 45.050 of the Code of Criminal Procedure or Section 521.201(8) of the Transportation Code. If the court generates a report to OMNI or proceeds under 45.050 or 521.201(8), reporting requirements exist.

A report to OMNI must comply with the reporting guidelines found on page 4-5 of this guide, except that the report should pertain to the defendant's failure to satisfy the judgment, rather than his or her failure to appear.

A defendant who is reported to OMNI for failure to satisfy a judgment may renew his driver's license with DPS only after paying the \$30.00 administrative fee described in Section 706.006 (or having it waived due to a finding of indigence pursuant to 706.006(d), which was added in 2017), AND:

- a. paying the outstanding fine and costs as ordered by the court's written judgment; or
- b. entering into a payment plan or other "suitable arrangement" (such as discharging the fine and costs by performing community service).

If the defendant who fails to discharge the fine and costs contained in the court's written judgment committed the offense while a juvenile, the court could also choose to proceed under Article 45.050. This statute allows the justice court to either refer the defendant to juvenile court for delinquent conduct (if the child is still a juvenile) or retain the case and hold the defendant in contempt for failure to satisfy the judgment.

If the court chooses the latter option, the court may take one or both of the following actions upon finding the defendant is in contempt of court:

- a. [order] that they pay a fine not to exceed \$500; and/or
- b. [order] that the Department of Public Safety suspend or deny issuance of the defendant's driver's license or permit until the defendant fully complies with the orders of the court" (see Article 45.050(c), Code of Criminal Procedure).

If the justice court chooses to order the Department of Public Safety to suspend the defendant's license, the court must use the appropriate form to convey its order to DPS.

The court also has an additional option when the defendant is a juvenile and has defaulted in payment of a fine. The court may choose, but is not required, to report the defendant to DPS under Section 521.201(8), Transportation Code. If DPS receives this report, it may not issue any license to the defendant unless the court has filed an additional report on final disposition of the case. See page 6 for more information on this option.

### ***Reporting Requirements Relating to Fines, Fees, and Court Costs***

Article 103.005 of the Code of Criminal Procedure requires justice courts to make reports regarding the collection of court costs and fees to the commissioners court of the county in which the justice court is located, as well as the district court serving the county in which the justice court is located. The report must be in writing, made under oath, and include the following information:

1. the amount of money collected by the officer;
2. when and from whom the money was collected;
3. the process by which the money was collected; and
4. the disposition of the money.

Additionally, a justice court must keep separate records and submit a separate report to the state comptroller regarding the court's collection of the state traffic fine under Section 542.4031 of the Transportation Code.

## **MAGISTRATION**

A justice of the peace may also be subject to reporting requirements when executing your duties as a criminal magistrate. Keep in mind that a justice of the peace's duty as a magistrate is to "preserve the peace within [his or her] jurisdiction by the use of all lawful means." Compliance with the following reporting requirements will help to keep the court's community safe and ensure a defendant is able to exercise his or her constitutional rights.

### ***Reporting Requirements Relating to a Magistrate's Order for Emergency Protection***

When executing his or her duties as a criminal magistrate, a justice of the peace may issue orders for emergency protection in order to protect victims of family violence. Issuance of these orders triggers several reporting requirements. The issuing magistrate is required to: "send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality." The magistrate must send the copy of the order as soon as possible, but not later than the next business day (*see Article 17.292(h), Code of Criminal Procedure*). Once notified, it is the sheriff's or police department's duty to report the existence of the order for emergency protection to the Department of Public Safety within three business days.

Additionally, if the victim is not present when the order is issued, the justice of the peace shall order a peace officer to make a good faith effort to notify the victim of the EPO within 24 hours, and the clerk of the court must send a copy of the EPO to the victim not later than the next business day after the date the order is issued (*see Article 17.292(h), Code of Criminal Procedure*).

The deadlines described above may be extended only if the magistrate or the clerk lacks information to ensure service and enforcement (*see Article 17.292(h-1), Code of Criminal Procedure*).

In an EPO, the magistrate is required to specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted. As of the 2019 Regular Legislative Session, even if this information is omitted from an EPO, it still must be collected in the statewide law enforcement information system (*See Section 411.042(b)(6), Government Code*).

If the defendant who is the subject of the EPO has been licensed to carry a handgun, the magistrate's order shall order the defendant's license to be immediately suspended. The magistrate shall immediately send a copy of the suspension order to DPS. Once DPS receives the order, it will immediately:

1. record the suspension of the license in the records of the department;
2. report the suspension to local law enforcement agencies, as appropriate; and
3. demand surrender of the suspended license from the license holder" (*see Articles 17.292 and 17.293, Code of Criminal Procedure*).

### ***Reporting Requirements Relating to Bond Conditions in Family Violence Cases***

Chapter 411 of the Government Code authorizes the Department of Public Safety to collect "information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case" (*see Section 411.042, Government Code*).

The Government Code also authorizes the Department of Public Safety to "adopt reasonable rules... [relating to] reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported to the local law enforcement agency at the time of the issuance, modification, or removal and entered by the local law enforcement agency in the state's law enforcement information system." However, DPS has yet to adopt such rules. Therefore, we recommend reporting bond conditions imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case to law enforcement in the same manner that you would report an order for emergency protection.

### ***Reporting Requirements Relating to a Bond Condition Restricting a Defendant to the Operation of a Motor Vehicle Equipped with an Ignition Interlock Device***

When a magistrate does a magistration on a defendant, one thing they must do is decide what, if any, bond conditions to impose on the defendant. Restricting a defendant to the use of a motor vehicle equipped with an Ignition Interlock Device is a mandatory bond condition in some situations and an optional bond condition in some situations (*see TJCTC's Magistration Deskbook and 2019 DWI Magistration & Inquest Field Guide for more information*).

When a magistrate restricts a defendant to the use of a motor vehicle equipped with an Ignition Interlock Device, the magistrate should notify DPS of the order. When DPS receives a

notice, it notifies the defendant that their driver's license expires on the 30th day after the date of the notice. If the defendant's license is not suspended, DPS will issue a special restricted license authorizing the person to operate only a motor vehicle equipped with an ignition interlock device when the person applies for one and pays a \$10 fee. *(See Section 521.2465, Transportation Code).*

# TRUANCY

## ***Reporting Requirements Relating to Remedial Orders***

If a truancy court finds that a child engaged in truant conduct, the court may enter a remedial order requiring the child to attend school and comply with other conditions set by the court. *Remember that this is now a civil and not a criminal proceeding.*

As part of the truancy court's order under Section 65.103, Family Code, the court may order DPS to suspend the driver's license or permit of the individual who engaged in truant conduct or, if the individual does not have a license or permit, to deny the issuance of a license or permit to the individual for a period specified by the court not to exceed the maximum time period that a remedial order may be effective (180 days or until the end of the school year, whichever period is longer).

If a court chooses to order DPS to suspend/deny the driver's license or permit, the court will need to report that order to DPS.

## ***Reporting Requirement Relating to Failure to Obey a Remedial Order***

If a child fails to obey a remedial order or is in direct contempt of court, the court may (after notice and hearing) hold the child in contempt under Section 65.251, Family Code. As part of this order, the court may order that the child's license/permit be suspended or denied issuance until they comply fully with the court's orders.

If a truancy court orders the Department of Public Safety to suspend a defendant's license under one of these statutes, the court must report the order to DPS using the appropriate form.

If a court chooses to order DPS to suspend/deny the driver's license or permit, the court will need to report that order to DPS.

# **OCA MONTHLY REPORTING REQUIREMENTS**

The Office of Court Administration's Official Justice of the Peace Monthly Report Instructions may be found at these links:

<http://www.txcourts.gov/media/299042/JP-Report-Instructions08212014.pdf>

<http://www.txcourts.gov/reporting-to-oca.aspx>

## **MISCELLANEOUS REPORTING REQUIREMENTS**

Additional reporting requirements may arise in your administrative duties. We describe these additional requirements below.

### ***Reporting Relating to License Suspension Hearings***

If a justice of the peace serves as a presiding officer at a driver's license suspension hearing under Chapter 521 of the Transportation Code, the justice of the peace may order the Department of Public Safety to probate a license suspension. If the JP does so, he or she must set the terms of the probation, and report those terms to DPS (*see Section 521.309, Transportation Code*).

Additionally, if a subsequent hearing is held to determine whether the licensee has violated the terms of his or her probation, the justice of the peace's determination shall be reported to DPS (*see Section 521.310, Transportation Code*).

### ***Reporting Relating to Occupational Driver's Licenses***

If a justice of the peace grants an occupational license petition, a certified copy of the petition and a certified copy of the court's order must be sent to the Department of Public Safety (*see Section 521.249, Transportation Code*).

If the justice court revokes an order granting an occupational license for any reason, a certified copy of the order revoking the license must be sent to DPS (*see Sections 521.245, 521.251(d-1) & 521.253(c), Transportation Code*).

Although the Transportation Code does not explicitly authorize justice courts to modify an order granting an occupational license, it is our opinion that courts have the inherent authority to do so. We recommend sending a certified copy of any order modifying the original occupational license order to the Department of Public Safety as well.

Certified copies may be mailed to the address below:

Texas Department of Public Safety

Enforcement and Compliance Service

Attn: ECA

P.O. Box 4087

Austin, TX 78773-0320

Certified copies may also be faxed to 512-424-2848 or emailed in PDF format to:

[driver.improvement@dps.texas.gov](mailto:driver.improvement@dps.texas.gov)

### ***Other Reporting Requirements***

#### **Section 106.116, Alcoholic Beverage Code:**

Requires the court to furnish a notice of conviction to the Texas Alcoholic Beverage Commission, but only upon the Commission's request.

#### **Article 102.017(f), Code of Criminal Procedure:**

Requires the sheriff, constable, or other law enforcement agency that provides security for a court to provide to the Office of Court Administration a written report regarding any security incident that occurs in or around a building housing a court for which the sheriff, constable, agency, or entity provides security not later than the third business day after the date the incident occurred. A copy of the report must be provided to the presiding judge of the court in which the incident occurred. The report is confidential and exempt from disclosure under Chapter 552, Government Code. (This article was amended in 2017 to change who is responsible for making the report and adding the requirement of providing a copy to the presiding judge).

#### **Section 550.081, Transportation Code:**

Requires a justice of the peace in a county without a medical examiner to submit monthly reports regarding traffic fatalities occurring within his or her jurisdiction. (For additional information, see TJCTC's DWI Magistration & Inquest Field Guide)

#### **Chapter 92, Health & Safety Code and Chapter 103, Texas Administrative Code:**

Requires all Justices of the Peace who conduct inquests to report to the EMS & Trauma Registries any deaths that resulted from or are suspected to have resulted from a traumatic brain injury, a spinal cord injury, or submersion. (For additional information, see TJCTC's DWI Magistration & Inquest Field Guide)