

## MEMORANDUM

TO: Hidalgo County Judge, Hidalgo County District Clerk, Hidalgo County Clerk,  
Hidalgo County Justices of the Peace, Hidalgo County Tax Assessor-Collector,  
Office of Budget and Management, and Information and Technology Department.

FROM: Criminal District Attorney, Rene Guerra

Date: December 19, 2013

RE: REQUEST FOR OPINION ON COUNTY SCOFFLAW FINES AND FEES

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Over the past year, my office has received various informal requests for opinion regarding the implementation of a scofflaw program here in Hidalgo County. Different attorneys have provided opinions both written and verbal and it has become clear there is a need to issue a general opinion addressing Hidalgo County's collection of scofflaw fines and fees now that the Hidalgo County Commissioners Court has approved the assessment of the fee. This opinion addresses when the scofflaw fee under Texas Transportation Code Section 502.010 ("Fee") may be collected on cases in the following courts: district courts; county courts at law; and justice of the peace ("JP") courts.

As per section 502.010 of the Texas Transportation Code, the county is authorized to impose a \$20 Fee on a person who fails to pay a fine, fee, or tax to the county by the date on which the fine, fee or tax is due. On September 18, 2012 and on October 22, 2013, the Hidalgo County Commissioners Court approved the assessment of the Fee to JP, county and district court cases that have outstanding balances over 90 days. The Fee may be collected on cases in district courts and county courts at law that have a final judgment (and have become 90 days past due). The Fee may also be collected on cases in JP courts when there is a final judgment that is unsatisfied (and has become 90 days past due), and on pending cases, including those involving a failure to appear (that have become 90 days past due). *See* Tex. Atty. Gen. Op. GA-1006 (2013) (*citing amendment to statute to allow imposition of fee where criminal proceeding is pending*) Tex. Transp. Code §502.010(f)(2).

Please note that the purpose of the Fee is to reimburse the county for its collection efforts, and should not be added prior to when a fine, fee or tax becomes 90 days past due.

This opinion supersedes and replaces any previous opinion issued whether written or verbal.

Should you have any questions or concerns, please do not hesitate to contact me, and/or the County Affairs Section of my office at 318-2313.