

THE ATTORNEY GENERAL

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An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0601-KP

Requestor:

The Honorable Edgar J. Garrett, Jr.

Delta County Attorney

Post Office Box 462

Cooper, Texas 75432

Re: Whether the Texas Commission on Environmental Quality has enforcement authority over waterway discharge by the U.S. Army Corps of Engineers (RQ-0601-KP)

Briefs requested by July 10, 2025

RQ-0602-KP

Requestor:

The Honorable Ashley Cain Land

Chambers County Attorney

Post Office Box 1200

Anahuac, Texas 77514

Re: Whether "advanced recycling facilities" engage in "recycling" under Texas law

(RQ-0602-KP)

Briefs requested by July 14, 2025

RQ-0603-KP

Requestor:

The Honorable Renee Ann Mueller

Washington County Attorney

100 East Main, Suite 200

Brenham, Texas 77833

Re: Transportation Code requirements for a "junked vehicle" to constitute a public nuisance (RQ-0603-KP)

Briefs requested by July 22, 2025

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202502191

Justin Gordon

General Counsel

Office of the Attorney General

Filed: July 1, 2025



Opinions

Opinion No. KP-0490

Ms. Kimberly M. Buchanan, CPA

Tarrant County Auditor

100 East Weatherford, Room 506

Fort Worth, Texas 76196-0103

Re: Authority of the Texas Supreme Court to require district and county clerks to integrate their case management systems with the proprietary re:SearchTX database (RQ-0556-KP)

S U M M A R Y

The Texas Supreme Court has authority under Government Code section 74.024 to order county and district clerks to integrate their case management systems with re:SearchTX, the Court's approved electronic filing system. The Court's order is also within the scope of the judicial power to implement rules for efficient and uniform administration of the various courts; thus, it does not violate the separation of powers between the judicial and legislative branches.

Opinion No. KP-0491

The Honorable Janna Lindig

Bandera County Attorney

Post Office Box 656

Bandera, Texas 78003

Re: Authority of a county commissioners court to enact an order penalizing a dog owner for a public nuisance due to the dog's excessive barking (RQ-0557-KP)

S U M M A R Y

A county commissioners court does not possess authority to enact an order penalizing a dog owner for a "public nuisance" due to the dog's excessive barking where, as here, no statute confers such authority to the commissioners court.

Opinion No. KP-0492

Ms. Jacky Cockerham
Aransas County Auditor
2840 Highway 35 North
Rockport, Texas 78382

Re: Authority of a county commissioners court to create a new legal-support position and transfer funding or positions away from the county attorney's office (RQ-0561-KP)

S U M M A R Y

A commissioners court has authority to delegate to any appropriate county official a function that is not a core duty of another county official. To the extent the duties of the contract and procurement specialist position are not core duties of the Aransas County Attorney's Office, the position and its associated funding may be transferred from the County Attorney to another appropriate county office. The specific office to which this position and funding may be reassigned is a determination for the Commissioners Court in the first instance, as long as other conflicts are not created with the transfer of duties.

A commissioners court has authority to hire legal counsel to assist with county responsibilities so long as the statutory duties of other county officials are not thereby usurped. To the extent it does not usurp or interfere with the statutory duties of other county officials, including the County Attorney, the Aransas Commissioners Court is authorized to create a new attorney position concerning the affairs of Aransas County. To the extent it does not usurp or interfere with the County Attorney's core duties, the Commissioners Court has, in some circumstances, authority through the exercise of its budgetary power to defund an existing civil attorney position to finance the new attorney position.

Opinion No. KP-0493

Ms. Alicia R. Whipple
Fannin County Auditor
101 East Sam Rayburn Drive, Suite 301
Bonham, Texas 75418

Re: Whether commissary funds under Local Government Code § 351.0415 can be used to hire a full-time employee at a privately operated jail (RQ-0564-KP)

S U M M A R Y

Local Government Code section 351.0415 authorizes the sheriff or the sheriff's designee to use commissary proceeds only for the enumerated statutory purposes. To the extent the county commissioners' court would be using the commissary proceeds for the salary of a particular county employee who will staff a county jail operated by a private vendor, such an expenditure would not be permissible under section 351.0415. Assuming the sheriff or sheriff's designee would use the commissary proceeds, the question of whether those proceeds may be used for the salary of that particular county employee pursuant to the enumerated statutory purposes detailed in subsections 351.0415(c)(1) and (c)(5) requires the resolution of fact questions that are beyond the scope of this opinion.

Opinion No. KP-0494

The Honorable Giovanni Capriglione
Chair, House Committee on Delivery of Government Efficiency
Texas House of Representatives

Post Office Box 2910
Austin, Texas 78768-2910

Re: Scope of third-party obligations resulting from child support liens under Family Code chapter 157 (RQ-0567-KP)

S U M M A R Y

Based on the plain text of Family Code subsection 157.318(a), child support liens on accounts with financial institutions have no uniform ending date but continue until all current support and arrearages (including interests, costs, and fees) are paid or the lien is otherwise released pursuant to Chapter 157 of the Family Code.

Family Code subsection 157.317(a-1) addresses property to which a child support lien attaches. The plain text of that subsection reveals that a lien attaches to all property of the obligor in the possession or control of a financial institution from the date the child support lien notice is delivered to the financial institution, which includes property acquired after deliver of the notice.

Compliance with a child support levy may, but does not necessarily, lead to the release of a lien.

Opinion No. KP-0495

Mr. Steven Daughety
Cherokee County Auditor
135 South Main, 3rd Floor
Rusk, Texas 75785

Re: Authorities and obligations regarding phone-card sales at a county jail (RQ-0570-KP)

S U M M A R Y

Revenue from phone cards sales derived from the exercise of inmate telephone privileges provided under the Texas Commission on Jail Standards' rule concerning inmate telephone plans must be deposited in the county's general fund. Revenue derived from the purchase of phone cards as a jail commissary item, bearing no correlation to the provision of inmate telephone privileges, are commissary funds under the exclusive control of the sheriff. It follows that phone card revenue must be deposited in the general fund where the ordering, fulfillment, and fund allocation of phone cards are separate from the commissary operation. The separate treatment of inmate commissary and telephone privileges could result in a situation where some telephone service or item is offered under both privileges.

The Cherokee County Commissioners Court may reinstate the PIN debit system, through its contracting and jail authority, so long as the chosen method complies with the requirements in the Commission's rule concerning inmate telephone privileges.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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Justin Gordon
General Counsel
Office of the Attorney General
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