

THE ATTORNEY GENERAL

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An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

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-0366-KP

Requestor:

The Honorable J.M. Lozano
Chair, House Committee on Environmental Regulation
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Re: Questions relating to governance of a non-profit entity created by and affiliated with a housing authority (RQ-0366-KP)

Briefs requested by August 27, 2020

RQ-0367-KP

Requestor:

The Honorable Bryan Hughes
Chair, Senate Committee on State Affairs
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Re: Information a local jurisdiction must provide if denying or conditionally approving a plat under chapter 212 of the Local Government Code and the authority local governments to establish prerequisites to the submission of a plat application (RQ-0367-KP)

Briefs requested by August 28, 2020

RQ-0368-KP

Requestor:

The Honorable Rafael Anchía
Chair, Committee on International Relations & Economic Development
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Re: Whether hotel occupancy tax revenue may be used to fund a public space at an apartment complex under section 351.101 of the Tax Code (RQ-0368-KP)

Briefs requested by September 3, 2020

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

TRD-202003154
Lesley French
General Counsel
Office of the Attorney General
Filed: August 4, 2020



Opinions

Opinion No. KP-0321

The Honorable Mark A. Gonzalez
Nueces County District Attorney
901 Leopard, Room 206
Nueces County Courthouse
Corpus Christi, Texas 78401-3681

Re: Whether in misdemeanor cases the trial court has authority to issue a *capias* on the filing of an information or complaint under article 23.04, Code of Criminal Procedure (RQ-0331-KP)

S U M M A R Y

A *capias* is a writ from a criminal court directed to any peace officer, commanding the officer to arrest a person accused of an offense and bring the arrested person before that court. Chapter 23 generally applies to post-bail and post-commitment settings. Construed within the context of chapter 23, articles 23.01 and 23.04 identify the court that may issue a *capias*, after commitment or the posting of bail. Thus, the judge of a court that obtains jurisdiction of a misdemeanor case upon the filing of an information or complaint may issue a *capias* after commitment or bail and before trial.

Opinion No. KP-0322

The Honorable Vince Ryan
Harris County Attorney
1019 Congress, 15th Floor

Houston, Texas 77002

Re: County authority to require facial coverings in courtrooms, courthouses, and county buildings (RQ-0356-KP)

S U M M A R Y

Local Government Code subsection 291.001(3) provides that the commissioners court shall maintain and regulate a county courthouse and other county offices and buildings. Pursuant to this authority, a commissioners court may require any person entering a courthouse or other county-owned or controlled building to wear a facial covering.

Judges possess broad inherent authority to control orderly proceedings in their courtrooms, and pursuant to that authority they could require individuals in the courtroom to wear facial coverings if necessary to maintain order and safety. In addition, the Texas Supreme Court has issued an emergency order requiring all judges to comply with guidance promulgated by the Office of Court Administration, which requires facial coverings by all individuals while in the courthouse. Thus, courts may require any person entering the courthouse in which they preside to wear a facial covering while in the courthouse.

Government Code section 418.108 authorizes a county judge to declare a local state of disaster and upon such declaration, vests the county judge with authority to control the occupancy of premises in the disaster area. Pursuant to this emergency authority, a county judge operating under a local disaster order could require a person to wear a facial covering when occupying a courthouse or other county-owned or controlled building.

Executive Order GA-29 allows local law enforcement and local officials to impose a fine not to exceed \$250 for an individual's second violation of a mask requirement. In addition, public officials may require facial coverings for those entering the courthouse or other county buildings and may deny entry to those individuals refusing to wear a facial covering inside those premises.

Opinion No. KP-0323

The Honorable Jim Murphy

Chair, House Committee on Pensions, Investments & Financial Services

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Authority of the Metropolitan Transit Authority of Harris County to prohibit service and access to its transit authority system to a person who refuses to comply with a rule requiring facial coverings (RQ-0360-KP)

S U M M A R Y

Subsection 451.107(a) of the Transportation Code authorizes the board of a metropolitan transit authority to adopt rules for the safe and efficient operation and maintenance of the transit authority system. If wearing a facial covering in a transit authority vehicle or facility is necessary for the safe and efficient operation of the Metropolitan Transit Authority of Harris County during the COVID-19 pandemic, the Authority may require any person medically capable of doing so to wear a facial covering when entering its vehicles or facilities. Furthermore, it may refuse service to or have removed individuals who refuse to comply with a rule that requires facial coverings.

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

TRD-202003155

Lesley French

General Counsel

Office of the Attorney General

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