

By: Hupp

H.B. No. 144

A BILL TO BE ENTITLED

AN ACT

1
2 relating to duties imposed on a peace officer after performing a
3 search.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 18.06, Code of Criminal Procedure, is
6 amended by adding Subsection (c) to read as follows:

7 (c) After completing a search, the officer executing the
8 warrant shall make a reasonable effort to return the place searched
9 to the condition the place was in immediately before the search.
10 This subsection does not prohibit an officer from removing property
11 from the place as permitted by this chapter or require the officer
12 to take an action that would interfere with:

13 (1) a subsequent examination of the place conducted
14 for purposes of a criminal investigation; or

15 (2) the officer's performance of another law
16 enforcement duty, if exigent circumstances require the officer to
17 immediately perform that duty.

18 SECTION 2. Chapter 2, Code of Criminal Procedure, is
19 amended by adding Article 2.139 to read as follows:

20 Art. 2.139. DUTIES RELATED TO CERTAIN SEARCHES. The
21 provisions of Article 18.06(c) relating to the duties of a peace
22 officer after the officer executes a search warrant apply to a peace
23 officer who performs a search without a warrant in the same manner
24 as if the officer were executing a warrant.

1 SECTION 3. Article 38.23, Code of Criminal Procedure, is
2 amended by adding Subsection (c) to read as follows:

3 (c) A peace officer who after completing a search fails to
4 comply with Article 2.139 or 18.06(c) has not by that failure
5 obtained evidence in violation of the laws of this state.

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2003.