

By: Vaught

H.B. No. 1354

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a search warrant for a blood specimen from certain persons arrested for certain intoxication offenses.

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

SECTION 1. Article 18.01, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) A search warrant may not be issued under Article 18.02(10) [~~pursuant to Subdivision (10) of Article 18.02 of this code~~] unless the sworn affidavit required by Subsection (b) [~~of this article~~] sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections (d), [~~and~~] (i), and (j) [~~of this article~~], only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas, a statutory county court judge, a district court judge, a judge of the Court of Criminal Appeals, including the presiding judge, or a justice of the Supreme Court of Texas, including the chief justice, may issue warrants under Article 18.02(10) [~~pursuant to Subdivision~~

1 ~~(10), Article 18.02 of this code].~~

2 (j) Any magistrate who is an attorney licensed by this state  
3 may issue a search warrant under Article 18.02(10) to collect a  
4 blood specimen from a person who:

5 (1) is arrested for an offense under Section 49.04,  
6 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

7 (2) refuses to submit to a breath or blood alcohol  
8 test.

9 SECTION 2. The change in law made by this Act applies only  
10 to a search warrant issued on or after the effective date of this  
11 Act. A search warrant issued before the effective date of this Act  
12 is governed by the law in effect on the date the warrant was issued,  
13 and the former law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.