

By: Christian

H.B. No. 3151

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of certain justices of the peace to issue
3 a search warrant for a blood specimen from a person arrested for
4 certain intoxication offenses.

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

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

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

1 may issue warrants under Article 18.02(10) [~~pursuant to Subdivision~~
2 ~~(10), Article 18.02 of this code~~].

3 (j) In a county with a population of 80,000 or less, any
4 justice of the peace may issue a search warrant under Article
5 18.02(10) to collect a blood specimen from a person who is arrested
6 for an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065,
7 49.07, or 49.08, Penal Code.

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

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