

By: Wentworth

S.B. No. 1069

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain magistrates to issue certain search warrants.

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

SECTION 1. Articles 18.01(c), (d), and (i), Code of Criminal Procedure, are amended 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 Subsection [~~Subsections~~] (d) [~~and (i) of this article~~], any magistrate [~~only a judge of a municipal court of record or county court who is an attorney licensed by the State of Texas, statutory county court, district court, the Court of Criminal Appeals, or the Supreme Court~~] may issue warrants under Article 18.02(10) [~~pursuant to Subdivision (10), Article 18.02 of this code~~].

(d) Only the specifically described property or items set

1 forth in a search warrant issued under Article 18.02(10)
2 [~~Subdivision (10) of Article 18.02 of this code~~] or property,
3 items, or contraband enumerated in Articles 18.02(1)-(9) or (12)
4 [~~Subdivisions (1) through (9) or in Subdivision (12) of Article~~
5 ~~18.02 of this code~~] may be seized. A subsequent search warrant may
6 be issued under Article 18.02(10) [~~pursuant to Subdivision (10) of~~
7 ~~Article 18.02 of this code~~] to search the same person, place, or
8 thing subjected to a prior search under Article 18.02(10)
9 [~~Subdivision (10) of Article 18.02 of this code~~] only if the
10 subsequent search warrant is issued by a magistrate other than the
11 magistrate who issued the prior search warrant [~~judge of a district~~
12 ~~court, a court of appeals, the court of criminal appeals, or the~~
13 ~~supreme court~~].

14 (i) In a county that does not have a judge of a municipal
15 court of record who is an attorney licensed by the state, a county
16 court judge who is an attorney licensed by the state, or a statutory
17 county court judge, any magistrate may issue a search warrant under
18 Article 18.02(12) [~~Subdivision (10) or Subdivision (12) of Article~~
19 ~~18.02 of this code. This subsection is not applicable to a~~
20 ~~subsequent search warrant under Subdivision (10) of Article 18.02~~
21 ~~of this code~~].

22 SECTION 2. The change in law made by this Act applies only
23 to a search warrant that is issued on or after the effective date of
24 this Act. A search warrant that was issued before the effective date
25 of this Act is governed by the law in effect on the date the warrant
26 was issued, and the former law is continued in effect for that
27 purpose.

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