

By: Price

H.B. No. 2458

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a magistrate to issue a search warrant
3 to collect a blood specimen from a person arrested for certain
4 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 (k) to
8 read as follows:

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

1 warrants under Article 18.02(10).

2 (k) In addition to the magistrates authorized by Subsection
3 (j) to issue search warrants to collect blood specimens from
4 persons described by Subsection (j), a justice of the peace who is
5 not an attorney licensed by this state may issue search warrants to
6 collect those blood specimens if the justice of the peace serves in
7 a county with a population of 30,000 or less and is authorized to
8 issue those warrants by the commissioners court of that county.

9 SECTION 2. This Act takes effect September 1, 2017.