

BILL ANALYSIS

C.S.H.B. 460
By: Bell
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is some concern that a search warrant issued by a magistrate to determine the blood alcohol content level of a person suspected of driving while intoxicated cannot be executed in a county that is contiguous to the county in which the warrant was issued, even though such a warrant issued by certain judges may be executed in a contiguous county. Interested parties note that law enforcement officers often seek warrants from a magistrate, rather than a judge, when in pursuit of a person suspected of driving while intoxicated because magistrates are more readily available to the officers for search warrant purposes in evenings and on weekends. Additionally, a recent appeals court ruling held that drawing a person's blood without a warrant is a violation of a person's Fourth Amendment rights, highlighting the need for legislative changes. C.S.H.B. 460 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 460 amends the Code of Criminal Procedure to authorize an officer seeking a search warrant for the collection of a blood specimen from a person suspected of committing certain intoxication offenses to obtain the search warrant from a magistrate with jurisdiction in the county in which the suspect was stopped or from a magistrate with jurisdiction in a county contiguous to the county in which the suspect was stopped, provided that the officer attempted and was unable to obtain a warrant from a magistrate serving a criminal court in the county in which the suspect was stopped. The bill authorizes the search warrant issued by a magistrate with jurisdiction in the contiguous county to be executed in the contiguous county in which the suspect was stopped regardless of whether the issuing court's jurisdiction extends outside the county in which the suspect was stopped.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 460 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences

between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.065 to read as follows:

Art. 18.065. WARRANT FOR BLOOD SPECIMEN IN INTOXICATION OFFENSE MAY BE EXECUTED IN CONTIGUOUS COUNTY.

Notwithstanding any other law, a warrant issued under Article 18.02(a)(10) to collect a blood specimen from a person suspected of committing an intoxication offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code,

may be executed in a county that is contiguous to the county in which the warrant is issued, regardless of whether the issuing court's jurisdiction extends outside the county in which that court is located.

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

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

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

(k)(1) An officer seeking a warrant under Article 18.02(a)(10) to collect a blood specimen from a person suspected of committing an intoxication offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code, may obtain the warrant:

(A) from a magistrate with jurisdiction in the county in which the suspect was stopped; or

(B) from a magistrate with jurisdiction in a county contiguous to the county in which the suspect was stopped, provided that the officer attempted and was unable to obtain a warrant from a magistrate serving a criminal court in the county in which the suspect was stopped.

(2) Notwithstanding any other law, a warrant issued under Subdivision (1)(B) may be executed in the contiguous county in which the suspect was stopped, regardless of whether the issuing court's jurisdiction extends outside the county in which the suspect was stopped.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.