

SUBJECT: Execution of search warrants for blood specimen in intoxication offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Carter, Canales, Leach, Moody, Schaefer, Toth

0 nays

2 absent — Burnam, Hughes

WITNESSES: For — Bill Lewis, Mothers Against Drunk Driving; Patrick Wilson, Ellis County District Attorney; (*Registered, but did not testify*: Lon Craft, Texas Municipal Police Association; Brian Eppes, Tarrant County District Attorney's Office; TJ Patterson, City of Fort Worth; Steven Tays, Bexar County Criminal District Attorney's Office; Justin Wood, Harris County District Attorney's Office)

Against — Chris Howe

DIGEST: HB 516 would allow search warrants issued by courts to collect blood specimens from persons suspected of certain intoxication offenses to be executed in a county contiguous to the county in which the warrant was issued, regardless of whether the issuing court's jurisdiction extended outside the county where it is located.

This authority would apply to: driving while intoxicated, driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, and intoxication manslaughter.

The bill would take effect September 1, 2013, and would apply to search warrants issued on or after that date.

SUPPORTERS SAY: HB 516 is needed to give law enforcement officers the authority to go to the closest medical facility to have blood drawn in DWI cases, even if the facility is in a county other than the one in which the search warrant was obtained. The need for this change was highlighted by a 2012 Court of Criminal Appeals ruling in which the court invalidated a search warrant because it was executed in Harris County but signed by a statutory county

court judge in Montgomery County. The court cited the lack of authority for statutory county court judges to issue search warrants outside of their own counties.

This situation occurs when law enforcement officers obtain a search warrant from a local authorized judge with jurisdiction limited to one county. Although officers could turn to district judges or others with statewide authority, many times the local judge is the most accessible.

After obtaining the warrant, officers must decide where to execute it by having the blood drawn. In some cases, the closest medical facility is in another county, and it would take much longer to travel across the county in which the warrant was issued. In DWI cases, travel time to draw blood is important because the more time that passes before testing, the more time the body has to metabolize the alcohol which affects the accuracy of the results. HB 516 would address this by allowing officers with a warrant to travel to the closest facility, even if it is across county lines.

HB 516 would make only a limited, warranted exception to current law. It would apply only to search warrants in a contiguous county and only to ones relating to blood alcohol levels. Magistrates would continue to operate under their limited jurisdiction for other types of search warrants.

**OPPONENTS
SAY:**

Logistical difficulties in getting a search warrant executed within the county where it was issued are not enough to override the principle that judges should operate within their jurisdiction. The issue of warrants to draw blood is controversial, and the state should be cautious about changes to standard search warrant procedures.