

BILL ANALYSIS

Senate Research Center

S.B. 1047
By: Seliger
Criminal Justice
6/3/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In some instances, a municipality may be located in more than one county. This can create unique challenges for law enforcement. Concerns have arisen about the validity of collecting a blood specimen in alcohol related driving offenses in which a warrant is issued in one county, while the blood draw is taken in a separate, neighboring county.

S.B. 1047 allows the blood draw for an intoxication offense to be done in an adjacent county and by a law enforcement officer authorized to make an arrest in the county of execution.

(Original Author's / Sponsor's Statement of Intent)

S.B. 1047 amends current law relating to the execution of a search warrant for taking a blood specimen from certain persons in certain intoxication offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 18, Code of Criminal Procedure, by adding Article 18.067, as follows:

Art. 18.067. EXECUTION OF WARRANT FOR BLOOD SPECIMEN IN INTOXICATION OFFENSE. Authorizes a warrant issued under Article 18.02(a)(10) (relating to a search warrant issued for certain property or items constituting evidence of an offense) to collect a blood specimen from a person suspected of committing an intoxication offense under Section 49.04 (Driving While Intoxicated), 49.045 (Driving While Intoxicated With Child Passenger), 49.05 (Flying While Intoxicated), 49.06 (Boating While Intoxicated), 49.065 (Assembling or Operating an Amusement Ride While Intoxicated), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), Penal Code, notwithstanding any other law, to be executed:

- (1) in any county adjacent to the county in which the warrant was issued; and
- (2) by any law enforcement officer authorized to make an arrest in the county of execution.

SECTION 2. Amends Article 18.10, Code of Criminal Procedure, as follows:

Art. 18.10. HOW RETURN MADE. (a) Creates this subsection from existing text. Creates an exception under Subsection (b) to the prohibition of the removal of property from the county in which it was seized without an order approving the removal. Makes a nonsubstantive change.

- (b) Authorizes property seized pursuant to a warrant executed under Article 18.067, for the purposes of complying with this article, to be removed from the

county in which it was seized and returned to the county in which the warrant was issued without a court order.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.