

CHAPTER 546

S.B. No. 1

AN ACT

relating to the admissibility of evidence seized pursuant to a governmental action.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 38.23, Code of Criminal Procedure, is amended to read as follows:

Art. 38.23. EVIDENCE NOT TO BE USED. (a) No evidence obtained by an officer or other person in violation of any provisions of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case.

In any case where the legal evidence raises an issue hereunder, the jury shall be instructed that if it believes, or has a reasonable doubt, that the evidence was obtained in violation of the provisions of this Article, then and in such event, the jury shall disregard any such evidence so obtained.

*(b) It is an exception to the provisions of Subsection (a) of this Article that the evidence was obtained by a law enforcement officer acting in objective good faith reliance upon a warrant issued by a neutral magistrate based on probable cause.*

SECTION 2. The change in the law made by this Act applies only to the admissibility of evidence obtained on or after the effective date of this Act. The admissibility of evidence obtained before the effective date of this Act is covered by the law in effect when the evidence was obtained, and the former law is continued in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 15, 1987, by a viva-voce vote. Passed the House on May 29, 1987, by a non-record vote.

Approved June 18, 1987.

Effective Sept. 1, 1987.