



**WARRANTS &
CAPIAS**

WARRANTS & CAPIAS

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**CHRONOLOGICALLY DISTINGUISHING THE
WARRANT, CAPIAS, AND CAPIAS PRO FINE IN THE TEXAS CODE OF CRIMINAL PROCEDURE**

Purpose	Prior to Formal Charging	After Formal Charging but Prior to Judgment	After Judgment and Sentence
Bond Forfeiture or Surrender of Principal	“Arrest Warrant” by <i>Magistrate</i> – Article 17.19	“Chapter 23 Capias” by <i>Trial Court</i>	
To Procure Custody	“Arrest Warrant” upon oath of affirmation & determination of probable cause by <i>Magistrate</i> – Exception: Article 45.014 “Arrest Warrant” by <i>Municipal Court</i> or <i>Justice Court</i>	“Chapter 23 Capias” by <i>Trial Court</i> – Exception: Article 45.014 “Arrest Warrant” by <i>Municipal Court</i> or <i>Justice Court</i>	“Chapter 43 Capias” by <i>Trial Court</i> – Article 43.015(1) – Article 43.04
To Enforce Judgment for Unpaid Fines and/or Costs			“Capias Pro Fine” by <i>Trial Court</i> ❖ General Provisions – Article 43.015(2) – Article 43.021 – Article 43.05 – Article 43.06 – Article 43.07 ❖ Specific Procedures in Chapter 45 Courts – Article 45.045 – Article 45.046 ❖ Specific Procedures in Other Trial Courts – Article 43.03

WARRANT OF ARREST: JUDGE (Art. 45.014, C.C.P.)

CAUSE NUMBER: _____

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

THE STATE OF TEXAS, TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

You are hereby commanded to arrest _____, Defendant, and bring (him) (her) before the Municipal Court named above on the ____ day of _____, 20___. Said Defendant has been accused of the fine-only misdemeanor offense: _____, which is against the laws of the State of Texas and/or against the city ordinances of said city.

Herein fail not, but make due service and return of this warrant of arrest, showing how you executed the same.

Signed this ____ day of _____, 20__.

(municipal court seal)

 Judge, Municipal Court
 City of _____
 _____ County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. by _____.

Peace Officer

Editor's Note: Judges in counties with population of more than two million and without a county attorney may not issue a warrant for issuance of a bad check unless the district attorney has approved the complaint or affidavit on which the warrant is based.

WARRANT OF ARREST: MAGISTRATE (Art. 15.02, C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

THE STATE OF TEXAS, TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

You are hereby commanded to arrest _____, Defendant, to be dealt with according to law. Said Defendant has been accused of the (felony) (misdemeanor) offense: _____, which is against the laws of the State of Texas and/or against the city ordinances of said city.

Herein fail not, but make due service and return of this warrant of arrest, showing how you executed the same.

Signed this ____ day of _____, 20__.

Magistrate
Municipal Judge, City of _____
_____ County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. by _____.

Peace Officer

AFFIDAVIT FOR PROBABLE CAUSE FOR ARREST WARRANT (Under Chapter 45, C.C.P.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ **COUNTY, TEXAS**

AFFIDAVIT

My name is _____ and I have good reason to believe and do believe that the offense of: _____ has been committed within the territorial limits of the City of _____, _____ County, State of Texas, as set forth in the attached reports and documents that are incorporated herein as if set forth in their entirety.

Affiant's belief is based on the following:

- Affiant's personal investigation of this offense, which is described in the attached reports and documents.
- Information received from _____, a peace officer who Affiant believes to be credible and who personally participated in the investigation of this offense, whose information is described in the attached reports and documents.

Affiant

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the above statement, and after being sworn by me, duly stated that the statements contained herein are true and correct to the best of his/her knowledge.

Sworn to and subscribed before me on this the _____ day of _____, 20__.

(Judge)(Clerk)(Notary Public in and for the State of Texas)

AFFIDAVIT FOR PROBABLE CAUSE FOR ARREST WARRANT (Under Chapter 15, C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

AFFIDAVIT

My name is _____ and I have good reason to believe and do believe that the offense of: _____
_____ has been committed in _____ County, State of Texas,
as set forth in the attached reports and documents that are incorporated herein as if set forth in their entirety.

Affiant's belief is based on the following:

- Affiant's personal investigation of this offense, which is described in the attached reports and documents.
- Information received from _____, a peace officer who Affiant believes to be credible and who personally participated in the investigation of this offense, whose information is described in the attached reports and documents.

Affiant

BEFORE ME, the undersigned authority, on this day appeared (personally) (through an electronic broadcast system) _____, known to me to be the person whose name is subscribed to the above statement, and after being sworn by me, duly stated that the statements contained herein are true and correct to the best of his/her knowledge.

Sworn to and subscribed before me on this the _____ day of _____, 20____.

(Magistrate)(Clerk)(Notary Public in and for the State of Texas)

AFFIDAVIT FOR PROBABLE CAUSE FOR FAILURE TO APPEAR (Sec. 38.10(a), P.C.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ **COUNTY, TEXAS**

AFFIDAVIT

I, _____, being duly sworn on oath, state that I have good reason to believe and do believe that:

On or about the ____ day of _____, 20__, in the City of _____, _____ County, Texas, _____, the Defendant, committed the offense of Failure to Appear. My belief of the above is based upon the following: _____

On this day, Affiant personally examined the official court records in Cause Number _____. Defendant is charged with the offense of _____, a misdemeanor. On _____, 20__, Defendant was in the custody of _____ and was released from custody that day. Defendant's (bail)(order of release) states that it is conditioned upon Defendant subsequently appearing in this Court at _____ o'clock, __.m. on _____, 20__.

- Affiant was present in the courtroom at the above stated time and date when the docket, including the Defendant's name, was called. The Defendant did not answer, did not appear, and did not appear by counsel.
- Affiant is custodian of the court records and has examined the records to determine if the Defendant appeared as required. The court records show that the Defendant did not appear and did not appear by counsel.

Affiant

Sworn to and subscribed before me on this the ____ day of _____, 20__.

(Judge)(Clerk)(Notary Public in and for the State of Texas)

AFFIDAVIT FOR PROBABLE CAUSE FOR FAILURE TO APPEAR OR VIOLATION OF PROMISE TO APPEAR WHEN ORIGINAL CHARGE FILED BY CITATION (Sec. 38.10(a), P.C. and Sec. 543.009(b), T.C.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ **COUNTY, TEXAS**

AFFIDAVIT

I, _____, being duly sworn on oath, state that I have good reason to believe and do believe that:

On or about the ____ day of _____, 20__, in the City of _____, in _____ County, Texas, _____, the Defendant, did willfully violate (his)(her) written promise to appear in court.

On this day, Affiant reviewed the citation issued to the Defendant by a licensed Texas peace officer, who arrested and released the Defendant and identified the Defendant as:

Name: _____ Race: _____ Sex: _____

Address: _____

Date of Birth: _____ Texas Driver's License: _____

Affiant saw that the citation contained the name and address given by the Defendant, the license number of the vehicle, charged the offense of _____, stated the time and place, when and where the Defendant was to appear, and showed that the Defendant gave (his)(her) written promise to appear by (his)(her) signature to the written notice prepared by the officer. A true and correct copy of the citation is attached and incorporated by reference.

- Affiant was present in the courtroom at the above stated time and date when the docket, including the Defendant's name, was called. The Defendant did not answer, did not appear, and did not appear by counsel.
- Affiant is custodian of the court records and has examined the records to determine if the Defendant appeared as required. The court records show that the Defendant did not appear and did not appear by counsel.

Affiant

Sworn to and subscribed before me on this the ____ day of _____, 20__.

(Judge)(Clerk)(Notary Public in and for the State of Texas)

SEARCH WARRANT (Arts. 18.02(1-9) and 18.04, C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

TO ANY PEACE OFFICER OF THE STATE OF TEXAS – GREETINGS:

WHEREAS, the Affiant, whose name appears on the attached affidavit hereto, is a peace officer under the laws of the State of Texas and did heretofore this day subscribe and swear to said affidavit before me (now made a part hereof and incorporated herein as if written verbatim within this document), and whereas I find that the verified facts stated by Affiant in said affidavit show that Affiant has probable cause for the belief he/she expresses herein and establishes the existence of proper grounds for issuance of this warrant;

Now, therefore, you are hereby commanded to enter the suspected place, vehicles, and premises described in said affidavit, to wit: _____ At said places you shall search for and, if same be found, seize and bring before me the property described in the affidavit which the suspected party, or others in control of the suspected place, are alleged to be concealing and to have in his/her possession in violation of the laws of the State of Texas, to wit: _____

Herein fail not, but make due service and return of this warrant, showing how you executed the same.

Signed this ____ day of _____, 20__.

Magistrate
Municipal Judge, City of _____
_____ County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. by _____

Peace Officer

AFFIDAVIT FOR SEARCH WARRANT (Art. 18.02(1-9), C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

AFFIDAVIT

My name is _____ and I am commissioned as a peace officer by _____.

1. There is in _____ County, Texas, a suspected place and premises described and located as follows: _____
Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places, and vehicles on said premises and within the curtilage, if said premises is a residence, which are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein. Attached as Exhibit A is a diagram illustrating the relative location of the place to be searched; it is to be considered as part of the affidavit as if written herein.
2. Said suspected place is in the charge of and controlled by each of the following named and/or described suspected parties, to wit: _____
3. It is the belief of Affiant that said suspected place contains in violation of the laws of the State of Texas the following property: _____

3. Affiant has probable cause for said belief by reason of the following facts and circumstances: _____

WHEREFORE, Affiant asks for issuance of a warrant that will authorize Affiant and other peace officers to search said suspected place and premises for the property described above and seize the same.

Affiant

BEFORE ME, the undersigned authority, on this day personally appeared the Affiant herein, a peace officer under the laws of the State of Texas, who, being sworn by me, duly stated that the statements contained herein are true and correct to the best of his/her knowledge.

Subscribed and sworn to before me on this the _____ day of _____, 20__.

(Magistrate)(Clerk)(Notary Public in and for the State of Texas)

SEARCH AND ARREST WARRANT (Arts. 18.02, 18.03, 18.04, and 15.02, C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

WHEREAS, the Affiant, whose name appears on the attached affidavit hereto, is a peace officer under the laws of the State of Texas and did heretofore this day subscribe and swear to said affidavit before me (now made a part hereof and incorporated herein as if written verbatim within this document), and whereas I find that the verified facts stated by Affiant in said affidavit show that Affiant has probable cause for the belief he/she expresses herein and establishes the existence of proper grounds for issuance of this warrant;

Now, therefore, you are hereby commanded to enter the suspected place, vehicles, and premises described in said affidavit, to wit: _____ At said places you shall search for and, if same be found, seize and bring before me the property described in the affidavit which the suspected party, or others in control of the suspected place, are alleged to be concealing and to have in his/her possession in violation of the laws of the State of Texas, to wit: _____

Further, you are commanded to arrest and search each suspected party named and described in said affidavit, to wit: _____ This individual is accused of an offense against the laws of the State: namely, (felony) (misdemeanor) _____, which is against the laws of the State of Texas and/or against the city ordinances of said city. You may arrest others for the same offense who are unknown to the affiant but found to be occupants of said premises and in control of same.

Herein fail not, but make due service and return of this warrant, showing how you executed the same.

Signed this ____ day of _____, 20__.

Magistrate
Municipal Judge, City of _____

County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. by _____

Peace Officer

AFFIDAVIT FOR COMBINED SEARCH AND ARREST WARRANT (Art. 18.02(1-9), C.C.P.)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

AFFIDAVIT

My name is _____ and I am commissioned as a peace officer by _____.

1. There is in _____ County, Texas, a suspected place and premises described and located as follows: _____. Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places, and vehicles on said premises and within the curtilage, if said premises is a residence, which are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein. Attached as Exhibit A is a diagram illustrating the relative location of the place to be searched; it is to be considered as part of the affidavit as if written herein.
2. Said suspected place is in the charge of and controlled by each of the following named and/or described suspected parties, to wit: _____.
3. It is the belief of Affiant that said suspected party has possession of and is concealing at said suspected place in violation of the laws of the State of Texas the following property: _____
_____.
4. Affiant has good reason to believe, does believe, and hereby charges and accuses that on or about _____ in _____ County, Texas, the suspected party committed an offense against the laws of the State of Texas, to wit: _____
_____.
5. Affiant has probable cause for said belief by reason of the following facts and circumstances: _____
_____.

WHEREFORE, Affiant asks for issuance of a warrant that will authorize Affiant and other peace officers to search said suspected place and premises for the property described above and seize same, and to arrest and search each suspected party named and described herein and others unknown to affiant found to be occupants of and in control of said premises.

Affiant

BEFORE ME, the undersigned authority, on this day personally appeared the Affiant herein, a peace officer under the laws of the State of Texas, who, being sworn by me, duly stated that the statements contained herein are true and correct to the best of his/her knowledge.

Subscribed and sworn to before me on this the _____ day of _____, 20____.

(Magistrate)(Clerk)(Notary Public in and for the State of Texas)

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

WHEREAS, the Affiant, whose name appears on the affidavit attached hereto, is a peace officer under the laws of the State of Texas and did heretofore this day subscribe and swore to said affidavit before me (now made a part hereof and incorporated herein as if written verbatim within this document), and whereas I find that the verified facts stated by Affiant in said affidavit show that Affiant has probable cause for the belief he/she expresses herein and establishes the existence of proper grounds for the issuance of this warrant:

Now, therefore, you are commanded to take custody of the suspect and transport the suspect to a hospital in _____ County, Texas where you shall search for, seize, and maintain as evidence the property described in said affidavit, to-wit: human blood from the body of the following described individual:

Name: _____
Race: _____ Sex: _____ DOB: _____
Height: _____ Weight: _____ lbs Hair color: _____

Herein fail not, but make due service and return of this warrant, showing how you executed the same.

Signed this ____ day of _____, 20__.

Magistrate
Municipal Judge, City of _____
_____ County, Texas

RETURN AND INVENTORY

The undersigned Affiant, being a Peace Officer under the laws of the State of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the _____ day of _____, 20__, by making the search directed therein and seizing during such search the following described property:

A specimen of the suspect's blood.

Affiant

Editor's Note: Effective September 1, 2009, any magistrate who is a licensed Texas attorney may issue a search warrant to collect a blood specimen from a person who is arrested for certain intoxication or alcohol offenses and refuses to submit to a breath or blood alcohol test.

THE STATE OF TEXAS, §
CITY OF _____ §
_____ COUNTY §

ORDER FOR ASSISTANCE IN EXECUTION OF SEARCH WARRANT

To any physician, nurse, medical technician, or phlebotomist, licensed by the State of Texas, or other person qualified in the intravenous removal of human blood - Greetings:

Whereas, the Affiant, whose name appears on the affidavit attached hereto, is a peace officer under the laws of the State of Texas and did heretofore this day subscribe and swear to said affidavit before me (now made a part hereof and incorporated herein as if written verbatim within this document), and whereas I find that the verified facts stated by Affiant in said affidavit show that Affiant has probable cause for the belief he/she expresses herein and establishes the existence of proper grounds for the issuance of a search warrant;

And whereas, this Court has issued a warrant to search for and seize blood from the suspect named and described in the affidavit, to-wit:

Name: _____
Race: _____ Sex: _____ DOB: _____
Height: _____ Weight: _____ lbs Hair color: _____

Therefore you are hereby ordered and commanded to cooperate with any peace officer requesting your professional assistance in the execution of this warrant.

Herein fail not, as this Order, directed to any individual whose aid and assistance is requested by the officer bearing the accompanying search warrant, is authorized by the full authority of this Court to issue warrants and orders to enforce the laws of the State of Texas, and Article 18.08, Code of Criminal Procedure. Any individual who fails to comply with this Order when requested shall be liable for contempt of this Court and subject to all penalties authorized by law.

Ordered this the ____ day of _____, 20__ at _____ o'clock __.m.

Magistrate
Municipal Judge, City of _____
_____ County, Texas

AFFIDAVIT FOR BLOOD SEARCH WARRANT

THE STATE OF TEXAS, §

CITY OF _____ §

_____ COUNTY §

AFFIDAVIT

My name is _____ and I am commissioned as a peace officer by _____.

1. There is in _____ County, Texas, a suspected person described as follows:

Name: _____
Race: _____ Sex: _____ DOB: _____
Height: _____ Weight: _____ lbs Hair color: _____

Said suspected person is presently in the custody of a law enforcement agency, namely the _____, which will present the suspect to execute the warrant requested herein.

2. Said suspected person has possession of and is concealing human blood, which constitutes evidence that the suspect committed the following offense:

- 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
- Intoxication Manslaughter

3. Affiant has probable cause for his/her belief the suspected person committed the above-described offense by reason of the following facts and circumstance: _____

4. Affiant placed said suspected person under arrest and requested a sample of the suspected person's breath or blood, which the suspected person refused to provide.

WHEREFORE, Affiant asks for issuance of a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above and seize the same as evidence that the offense described was committed and that the suspect committed said offense.

Affiant

BEFORE ME, the undersigned authority, on this day personally appeared the Affiant herein, a peace officer under the laws of the State of Texas, who, being sworn by me, duly stated that the statements contained herein are true and correct to the best of his/her knowledge.

Subscribed and sworn to before me on this the _____ day of _____, 20__.

(Magistrate)(Clerk)(Notary Public in and for the State of Texas)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

THE STATE OF TEXAS, TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

You are hereby commanded to arrest _____, Defendant, and bring (him)(her) before the Municipal Court named above (immediately) (on the ____ day of _____, 20__). Said Defendant has been accused of the fine-only misdemeanor offense: _____, which is against the laws of the State of Texas and/or against the ordinances of said city.

Herein fail not, but make due service and return of this writ of capias on _____, 20__, showing how you executed the same.

Signed this ____ day of _____, 20__.

(municipal court seal)

Judge, Municipal Court
City of _____

County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. by _____

Peace Officer

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS - GREETINGS:

You are hereby commanded to arrest _____, Defendant, and bring (him)(her) before the Municipal Court named above (immediately) (on the ____ day of _____, 20__). Said Defendant has been convicted of the fine-only misdemeanor offense: _____, which is against the laws of the State of Texas and/or against the ordinances of this city.

Herein fail not, but make due service and return of this writ of capias on _____, 20__, showing how you executed the same.

Signed this ____ day of _____, 20__.

(municipal court seal)

Judge, Municipal Court
City of _____

County, Texas

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the _____ day of _____, 20__, at _____ o'clock __.m. by _____.

Peace Officer