



Kentucky County Attorneys Association

DUI SEARCH WARRANTS

The Kentucky County Attorneys Association (KCAA) asks for your support in protecting the Commonwealth by allowing search warrants to be obtained in DUI cases in which the offender refuses a request for a blood test.

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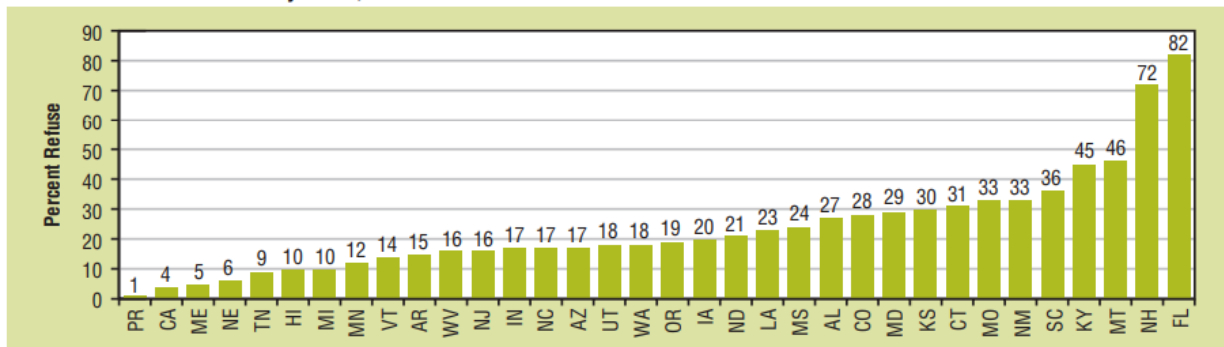
Current Kentucky statutes allow for a warrant to be obtained only in cases which involve death or physical injury in Kentucky. According to a report issued by Mothers Against Drunk Driving (MADD), 34 states allow for search warrants to be obtained upon refusal of a blood test.

A recent Kentucky Supreme Court decision, Commonwealth v. McCarthy, drastically changed Kentucky law by prohibiting the Commonwealth from introducing at trial that an offender refused a request for a blood test, depriving a jury of scientific evidence in a DUI and an explanation for why it doesn't exist.

DUI cases are the only Kentucky offense in which a search warrant cannot be obtained upon a showing of probable cause.

Kentucky has always experienced a large number of refusals, as shown below. Recent numbers obtained from the Kentucky State Police exhibit the same problem.

Figure 1
Breath Test Refusal Rates by State, 2011



Note that New Hampshire had 2011 data only from January to September. Therefore, the data are extrapolated based on the average for the 9-month period.

Of the DUI arrests this year in the Commonwealth, more than half involved drugs or a combination of drugs and alcohol. Without a blood test, the Commonwealth is unable to prove the case by means of scientific evidence, which is a key component of a prosecutor's case.

The results of a blood test can also help corroborate a person's innocence if the test results are negative.