

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1434

SPONSOR: Senator Crist

SUBJECT: Detention of Suspected Offenders

DATE: February 21, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ JU	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Section 1 of this bill amends s. 901.151(5), F.S. (the “Florida Stop and Frisk Law”) to state that a law enforcement officer may search a temporarily detained person for weapons if the officer has a “reasonable suspicion” that the person is armed with a dangerous weapon and offers a threat to the officer’s or another person’s safety. This would conform the language of the statute to long-standing case law.

Section 2 of the bill amends s. 901.25, F.S., to specifically state that pursuit of a person who has committed a traffic infraction is included within the definition of “fresh pursuit.”

The bill has an effective date of July 1, 2002.

This bill substantially amends the following sections of the Florida Statutes:
901.151, 901.25.

II. Present Situation:

Section 901.151(2), F.S., permits a law enforcement officer to temporarily detain a person under circumstances reasonably indicating that the person either has, is, or is about to, commit a crime. The purpose of such temporary detention is to allow the officer to determine the person’s identity and the circumstances which led the officer to believe that criminal activity was afoot. Section 901.151(5), F.S., gives the officer authority to search the detained person for weapons if the officer has “probable cause” to believe that the person is armed with a dangerous weapon and offers a threat to the officer’s or another person’s safety.

Section 901.151(5), F.S., states that probable cause is required to conduct permissible limited

search for weapons. However, in *State v. Webb*, 398 So.2d 820 (Fla. 1981), the Florida Supreme Court determined that the Legislature intended for the law to conform with the reasonable suspicion standard established by the United States Supreme Court in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968). Therefore, Florida courts actually apply a reasonable suspicion standard in evaluating whether such a search is constitutional.

Section 901.25, F.S., defines the term “fresh pursuit” in the context of law enforcement officers who are pursuing persons suspected of committing offenses. Currently, the term includes pursuit of a person who has: (1) committed a felony; (2) is reasonably suspected of having committed a felony; (3) committed a misdemeanor; (4) violated ch. 316, F.S.; or (5) violated a county or municipal ordinance.

III. Effect of Proposed Changes:

Section 1 of the bill will amend s. 901.151(5), F.S., to provide that the standard for an officer to conduct a limited search for weapons is “reasonable suspicion.” Reasonable suspicion is the constitutional standard for such searches under both the Florida and the United States Constitutions. This change will conform the statute to the statutory interpretation that has been applied by Florida courts since 1981.

Section 2 of the bill amends s. 191.25(1), F.S., to specifically include pursuit of a person who has committed a traffic infraction within the definition of fresh pursuit. Traffic infractions are arguably already embraced within the definition as violations of ch. 316, F.S., or municipal or county ordinance, but specific inclusion of the term will remove any possible doubt.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
