

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.
