

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: March 1, 2002

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable</u>
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 expressly 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 and 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 committed, is committing, 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. The search can only extend to the point necessary to disclose the presence of a weapon.

Although s. 901.151(5), F.S., states that “probable cause” is required to conduct a permissible

limited search for weapons, the Florida Supreme Court has held that this term is not utilized in the same sense that the term is used when referring to arrest or search warrants. *See State v. Webb*, 398 So.2d 820 (Fla. 1981). Since the court's ruling in *Webb*, Florida courts have used various terms in determining if a search was valid, including "reasonable belief,"¹ "reasonable suspicion,"² "articulable suspicion,"³ as well as "probable cause."⁴ Accordingly, what is generally required is not probable cause but a reasonable belief on the part of the officer that the person temporarily detained is armed with a dangerous weapon.⁵

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. (Florida Uniform Traffic Control Law); or (5) violated a county or municipal ordinance.

III. Effect of Proposed Changes:

Section 1 of the bill amends 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. 901.25(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.

¹ *See Hines v. State*, 737 So.2d 1182 (Fla. 1st DCA 1999).

² *See Everette v. State*, 736 So.2d 726 (Fla. 2d DCA 1999).

³ *See Smith v. State*, 735 So.2d 570 (Fla. 2d DCA 1999).

⁴ *See Coleman v. State*, 723 So.2d 387 (Fla. 2d DCA 1999).

⁵ *Hines*, 737 So.2d 1182.

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.
