

The 2007 Florida Statutes

901.151 Stop and Frisk Law.--

- (1) This section may be known and cited as the "Florida Stop and Frisk Law."
- (2) Whenever any law enforcement officer of this state encounters any person under circumstances which reasonably indicate that such person has committed, is committing, or is about to commit a violation of the criminal laws of this state or the criminal ordinances of any municipality or county, the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person's presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense.
- (3) No person shall be temporarily detained under the provisions of subsection (2) longer than is reasonably necessary to effect the purposes of that subsection. Such temporary detention shall not extend beyond the place where it was first effected or the immediate vicinity thereof.
- (4) If at any time after the onset of the temporary detention authorized by subsection (2), probable cause for arrest of person shall appear, the person shall be arrested. If, after an inquiry into the circumstances which prompted the temporary detention, no probable cause for the arrest of the person shall appear, the person shall be released.
- (5) Whenever any law enforcement officer authorized to detain temporarily any person under the provisions of subsection (2) has probable cause to believe that any person whom the officer has temporarily detained, or is about to detain temporarily, is armed with a dangerous weapon and therefore offers a threat to the safety of the officer or any other person, the officer may search such person so temporarily detained only to the extent necessary to disclose, and for the purpose of disclosing, the presence of such weapon. If such a search discloses such a weapon or any evidence of a criminal offense it may be seized.
- (6) No evidence seized by a law enforcement officer in any search under this section shall be admissible against any person in any court of this state or political subdivision thereof unless the search which disclosed its existence was authorized by and conducted in compliance with the provisions of subsections (2)-(5).

History.--ss. 1, 2, ch. 69-73; s. 1459, ch. 97-102.

Title XLVI
CRIMES

Chapter 856

DRUNKENNESS; OPEN HOUSE PARTIES; LOITERING; PROWLING;
DESERTION

[View Entire Chapter](#)

856.021 !Loitering or prowling; penalty.--

(1) !It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(2) !Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

(3) !Any person violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 72-133; s. 1384, ch. 97-102.

DEP DIVISION OF LAW ENFORCEMENT

GENERAL ORDER 4-3

SEARCHES

EFFECTIVE: May 21, 2001

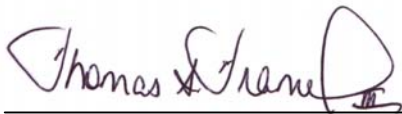
AMENDS:

RESCINDS: GO 6

REFERENCE: Chapter 901, F.S., CFA
18.13

DISTRIBUTIONS: All Certified LEO

AUTHORITY OF:



Director Thomas S. Tramel, III

DATE: 5/3/01

The purpose of this general order is to direct law enforcement personnel in making law enforcement searches.

4-3.1 POLICY

All searches shall be conducted within the provisions of the Constitution of the United States of America, the Constitution of the State of Florida, and Chapter 901, Florida Statutes.

4-3.2 DEFINITIONS

A. Probable Cause – more than bare suspicion; it exists when “the facts and circumstances within the officers’ knowledge and which they had reasonable caution in the belief that an offense has been or is being committed” (Brinegar v. U.S., 160 [1949]).

B. Stop and Frisk – The temporary detainment of a person under circumstances which reasonably indicate that such person has committed, is committing, or is about to commit a violation of the criminal laws of this state or the criminal ordinances of any municipality or

county. The temporary detainment is for the purpose of ascertaining the identity of the person and the circumstances surrounding the person’s presence abroad which led the member to believe that the person had committed, was committing, or was about to commit a criminal offense. The purpose of a “Stop and Frisk” is to identify and dispel original suspicion of whether a person is legally present at a location. The stop is ended when suspicion is not escalated to probable cause.

4-3.3 PROCEDURES

A. Stop and Frisk - Provisions of Florida's Stop and Frisk Law (Section 901.151, F. S.) provide for the following procedures when questioning an individual prior to any arrest:

1. A member having reasonable indication that a person has committed, is committing, or is about to commit a violation of any state criminal law or any criminal municipal ordinance may temporarily detain the person to ascertain his identity.
2. Upon probable cause, the member may make a "pat down" search of the person to determine if he is armed. The search of the person may be "only to the extent necessary to disclose, and for the purpose of disclosing, the presence of such weapon".
3. A person cannot be detained for any unreasonable time or taken to any place other than the immediate area where the stop and frisk takes place.
4. No evidence seized as a result of stop and frisk may be admitted in court unless the seizure was conducted in compliance with all provision of the stop and frisk law.
5. This law does not permit a search of the person designed to disclose anything but a weapon, unless there is probable cause to search for any other contraband such as controlled substances.

B. Searches incidental to a lawful arrest are authorized under Section 901.21, F. S. These searches may include the area within the person's immediate presence.

C. Consent Searches - Members may ask individuals for permission to search. This permission should be obtained in writing on the "Permission to Search Form" DEP 20-093.

D. Search warrants of private dwellings are pursuant to subsection 933.18, F. S. In all cases wherein a member petitions the court for a search warrant, prior approval shall be obtained from a district supervisor. An Assistant State Attorney should review the petition before it is presented to a judge.

E. Any time a member of the division seizes evidence or recovers property during the course of duty, a complete inventory of all items shall be recorded to include:

1. A full description of items with make, model number, and serial number,
2. The source from whom or where the item was obtained, and
3. The name of the person collecting the item or items.