

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1284

INTRODUCER: Senator Martin

SUBJECT: Arrest and Search Warrants

DATE: January 16, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Pre-meeting
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 1284 amends s. 901.02, F.S., to revise language related to the issuance of arrest warrants for misdemeanor crimes. The bill provides that if a complaint alleges only the commission of a misdemeanor offense, the judge may either issue:

- An arrest warrant; or
- A summon or a notice to appear in lieu of an arrest warrant.

The bill amends s. 901.09, F.S., to provide that when a complaint is for a misdemeanor, the court may, rather than shall, issue a summons instead of a warrant. The judge must believe that special conditions of pretrial release are not necessary to protect a victim or the community if he or she issues a summons.

The bill amends s. 901.15, F.S., to add the following crimes to the list of crimes that law enforcement may arrest a person without a warrant:

- Violation of an injunction for protection against stalking or cyberstalking;
- Violation of an injunction for protection against;
- Driving under the influence (DUI); and
- Boating under the influence (BUI).

The bill amends s. 933.02, F.S., to add that a search warrant may be issued:

- When a sample of blood of a person or other property constitutes evidence relevant to proving a DUI or BUI;
- When the laws relating to Domestic Violence are violated in any particular building or place;
- When the laws in relation to any misdemeanor crime that involves the use or threat of physical force or violence against an individual are involved.

The bill takes effect on July 1, 2026.

II. Present Situation:

Criminal Case Court Proceedings

The jurisdiction of a county court includes all misdemeanor cases not cognizable by the circuit courts.¹ The term “misdemeanor” means any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not more than 1 year.² A circuit court is a trial court and has jurisdiction over all actions at law not cognizable by the county courts including all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged.³

All persons tried in the county court on any criminal charge shall be tried:

- Upon indictment by the grand jury;⁴
- Upon information filed by the prosecuting attorney;⁵ or
- Upon affidavit or complaint.⁶

The state attorney is authorized to sign affidavits before the judge of the county court when the state attorney has evidence to support such affidavit for a criminal charge over which such court has jurisdiction.⁷ Information may be filed by the prosecuting attorney of the circuit court with the clerk of the circuit court without leave of the court first being obtained.⁸

A judge has the authority to issue arrest warrants based on criminal complaints if the judge is satisfied that probable cause exists for the issuance of an arrest warrant for any crime committed within the judge's jurisdiction.⁹ The court may issue an arrest warrant for a defendant only if all of these circumstances apply:

- A complaint has been filed charging the commission of a misdemeanor only.
- The summons issued to the defendant has been returned unserved.
- The judge is satisfied that probable cause exists for the issuance of an arrest warrant based upon the examination of the complaint and proofs submitted for a crime committed within the judge's jurisdiction.¹⁰

An arrest warrant shall be deemed to be issued by a judge at the time the judge affixes the judge's signature or electronic signature to the warrant.¹¹

¹ Section 34.01(1)(a), F.S.

² Section 775.08(2), F.S.

³ Section 26.012, F.S.

⁴ Section 905.16, F.S.

⁵ Section 34.13(1), F.S.

⁶ Section 34.13(1), F.S.

⁷ Section 34.13(3), F.S.

⁸ Section 932.47, F.S.

⁹ Section 901.02(1), F.S.

¹⁰ Section 901.02(2), F.S.

¹¹ Section 901.02(4), F.S.

Upon complaint made on affidavit to any county court that any misdemeanor has been committed, the county court judge may issue a warrant on the usual form, making it returnable before himself or herself or another county court judge.¹²

A summons to appear in court must be issued by the trial court when the complaint is for an offense that the trial court judge is empowered to try summarily unless the judge reasonably believes that the person against whom the complaint was made will not appear upon a summons, and then the trial court judge must issue a warrant.¹³ When the complaint is for a misdemeanor that the trial court judge is not empowered to try summarily, the trial court judge shall issue a summons instead of a warrant if she or he reasonably believes that the person against whom the complaint was made will appear upon a summons.¹⁴ The summons must set forth substantially the nature of the offense and command the person against whom the complaint was made to appear before the trial court judge at a stated time and place.¹⁵

If a person who is arrested does not have a right to bail for the offense charged, he or she shall be delivered immediately into the custody of the sheriff of the county in which the indictment, information, or affidavit is filed. If the person who is arrested has a right to bail, he or she shall be released after giving bond on the amount specified in the warrant.¹⁶ The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant.¹⁷

Arrest Without a Warrant

Under conditions provided in s. 901.15, F.S., a law enforcement officer may arrest a person without a warrant under certain circumstances, some of which are listed below. The officer may make that arrest when there is probable cause to believe that person:

- Possessed a firearm or ammunition while the subject to an injunction against committing acts of:
 - Domestic violence,
 - Stalking; or
 - Cyber stalking.¹⁸
- Violated an injunction for protection against:
 - Domestic violence,¹⁹
 - Repeat violence,
 - Sexual violence,
 - Dating violence;²⁰ or
 - Exploitation of a vulnerable adult.²¹

¹² Section 34.13(4), F.S.

¹³ Section 901.09, F.S.

¹⁴ Section 901.09(1), F.S.

¹⁵ Section 901.09(3)

¹⁶ Section 907.04(1), F.S.

¹⁷ Section 903.046, F.S.

¹⁸ Section 790.233, F.S.

¹⁹ Section 741.31, F.S.

²⁰ Section 784.047(1), F.S.

²¹ Section 825.1036, F.S.

- Violated a foreign protection order.²²

Search Warrants

Section 933.02, F.S. provides that upon proper affidavits being made, a search warrant may be issued under ch. 933, F.S., upon any of the following grounds:

- When the property shall have been stolen or embezzled in violation of law;
- When any property shall have been used:
 - As a means to commit any crime;
 - In connection with gambling, gambling implements and appliances; or
 - In violation of s. 847.011, F.S., or other laws in reference to obscene prints and literature;
- When any property constitutes evidence relevant to proving that a felony has been committed;
- When any property is being held or possessed:
 - In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;
 - In violation of the fish and game laws;
 - In violation of the laws relative to food and drug; or
 - In violation of the laws relative to citrus disease pursuant to s. 581.184, F.S.; or
- When the laws in relation to cruelty to animals, as provided in ch. 828, F.S., have been or are violated in any particular building or place.

Seizure of Blood Evidence

The crimes involving DUI and BUI resulting in the death or serious bodily injury of a human being carry the requirement that the operator of the vehicle or vessel submit to a blood test of his or her blood to measure the alcohol or controlled substance level in the blood.²³

Section 327.353, F.S., provides that a law enforcement *officer who has probable cause* to believe a vessel operated by a *person under the influence* of alcoholic beverages, any chemical substance, or any controlled substance has caused the *death or serious bodily injury* of a human being, must *require the person* operating the vessel *to submit to a blood draw*. The officer may use *reasonable force if necessary* to require the person to submit to the administration of such blood draw.²⁴ Courts have upheld a similar statute allowing forcible blood draw after a traffic accident with serious bodily injury where there was probable cause to believe that the driver was under the influence of alcohol.²⁵

A blood draw to determine whether a person is under the influence of alcohol, a chemical substance or a controlled substance is a search that has Fourth Amendment ramifications.²⁶ The

²² Section 741.315, F.S.

²³ Sections 316.1933(1)(a) and 327.353(1)(a), F.S.

²⁴ Section 327.353(1)(a), F.S. *See, also* Section 316.1933(1), F.S., for the Driving Under the Influence blood draw provisions.

²⁵ *See State v. Quintanilla*, 276 So. 3d 941 (3rd DCA) (2019), (rev. den., 20 WL 633783) (Feb. 11, 2020).

²⁶ Both the United States Constitution and the Florida Constitution guarantee that “[t]he right of the people to be secure in their persons ... against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause.” Amend. IV, U.S. Const.; *see* Art. I, § 12, Fla. Const (“Such an invasion of bodily integrity implicates an individual’s ‘most personal and deep-rooted expectations of privacy.’”) (quoting *Winston v. Lee*, 470 U.S. 753, 760, 105 S. Ct. 1611, 1616, 84 L. Ed. 2d 662 (1985)). *See State v. Quintanilla*, 276 So.3d 941, 944-945 (Fla. 3rd), (2019).

Florida Supreme Court has explained how the Florida courts interact with Fourth Amendment jurisprudence: “The Fourth Amendment to the United States Constitution protects the rights of people to be free of unreasonable searches and seizures.”²⁷

Although there are judicially recognized exceptions²⁸ to obtaining a search warrant before a search is conducted, the general preference is that a judge review the attesting officer’s sworn application and warrant for the requisite probable cause for the seizure and the basis for it.²⁹ Having found that probable cause for the search exists, the judge should then approve the warrant to be served, executed, and returned by the law enforcement officer.³⁰

III. Effect of Proposed Changes:

SB 1284 amends various statutory provisions relating to pretrial procedures designed to establish the court’s jurisdiction over a defendant.

The bill amends s. 901.02, F.S., providing that in a misdemeanor case a judge may elect to issue a summons or a notice to appear, rather than issue an arrest warrant for a defendant if she or he reasonably believes that the person against whom the complaint was made will appear upon the summons or notice to appear and does not believe that special conditions of pretrial release are necessary to protect a victim or the community. The judge retains the ability to issue an arrest warrant.

Similarly, the bill amends s. 901.09, F.S., providing that when the complaint is for a misdemeanor that the trial court judge is not empowered to try summarily, the trial court judge may issue a summons instead of a warrant if she or he reasonably believes that the person against whom the complaint was made will appear upon a summons and does not believe that special conditions of pretrial release are necessary to protect a victim or the community.

The bill amends s. 901.15, F.S., to provide law enforcement officers the ability to arrest a person without an arrest warrant for certain offenses if the officer has probable cause to believe that the person has committed a criminal act according to s. 784.0487, F.S., violation of an injunction against stalking or cyberstalking; s. 784.0485, F.S., violation of an injunction against stalking; s. 316.193, F.S., DUI; and s. 327.35, F.S., BUI.

²⁷ U.S. Const. amend. IV prohibits unreasonable searches and seizures; a blood alcohol test constitutes a “search.” See *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2173 (2016).

²⁸ For example, the exigent circumstances exception “applies when the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment.” *McNeely*, 569 U.S. at 148-49, 133 S. Ct. at 1558 (quoting *Kentucky v. King*, 563 U.S. 452, 459, 131 S. Ct. 1849, 1856, 179 L. Ed. 2d 865 (2011)).

²⁹ “‘Probable cause exists where “the facts and circumstances within [an officer’s] knowledge and of which [he] had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that” an offense has been or is being committed,’ and that evidence bearing on that offense will be found in the place to be searched.” *Safford Unified Sch. Dist. # 1 v. Redding*, 557 U.S. 364, 370, 129 S. Ct. 2633, 2639, 174 L. Ed. 2d 354 (2009) (alterations in original) (quoting *Brinegar v. United States*, 338 U.S. 160, 175-76, 69 S. Ct. 1302, 1310-11, 93 L. Ed. 1879 (1949)).

³⁰ Sections 933.07, 933.08, and 933.12, F.S.

The bill amends s. 933.02, F.S., to provide that upon proper affidavits being made, a court may issue a search warrant upon the following grounds, when:

- A sample of the blood of a person or other property constitutes evidence relevant to proving that a violation of s. 316.193, F.S., DUI, or s. 327.35, F.S., BUI, has been committed.
- The laws in relation to domestic violence as defined in s. 741.28, F.S., are violated in any particular building or place.
- The laws in relation to any misdemeanor crime that involves the use or threat of physical force or violence against an individual are violated.
- The laws in relation to any misdemeanor crime that involves the use or threat of physical force or violence against an individual are violated.

The bill takes effect on July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 901.02, 901.09, 901.15, 933.02, 901.1501, 20.165, 39.504, 321.05, 570.65, 741.30, 784.0485

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
