



2013 SENATE BILL 40

February 28, 2013 – Introduced by Senators LEIBHAM and PETROWSKI, cosponsored by Representatives ENDSLEY, JACQUE, KNODL, STONE, BORN, STROEBEL, LEMAHIEU, A. OTT, BROOKS, TITTL, MARKLEIN and SPIROS. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

1 **AN ACT to create** 302.043 (4), 302.045 (3m) (e), 302.05 (3) (c) 4., 302.11 (6m),
2 302.113 (7r), 302.114 (8g), 304.02 (2m), 304.06 (1r) and 973.09 (1d) of the
3 statutes; **relating to:** searches by a law enforcement officer of a person on
4 probation, parole, or extended supervision.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, if a person is convicted of a crime a court may withhold sentencing of the person or may impose a sentence but stay its execution and, in either case, place the person on probation. The court may impose conditions of probation. If a person violates a condition of probation, the person's probation may be revoked.

Under current law, a person who is released from confinement in a prison to parole or to extended supervision is subject to conditions set by the parole commission or by the Department of Corrections (DOC). If a person violates one of these conditions, his or her parole or extended supervision may be revoked and the person may be returned to prison.

This bill specifies that a person who is placed on probation or a person who is released from incarceration to parole or extended supervision is subject to having his or her person, residence, and any property under his or her control searched by a law enforcement officer at any time if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of probation or release. Under the bill, a law enforcement officer may not conduct

SENATE BILL 40

the search in an arbitrary, capricious, or harassing manner and must notify DOC as soon as practical after he or she conducts the search.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.043 (4) of the statutes is created to read:

2 302.043 (4) A person released under this section, his or her residence, and any
3 property under his or her control may be searched by a law enforcement officer at any
4 time during his or her period of supervision if the officer reasonably suspects that the
5 person is committing, is about to commit, or has committed a crime or a violation of
6 a condition of release to extended supervision. Any search conducted pursuant to
7 this subsection shall be conducted in a reasonable manner and may not be arbitrary,
8 capricious, or harassing. A law enforcement officer who conducts a search pursuant
9 to this subsection shall, as soon as practicable after the search, notify the
10 department.

11 **SECTION 2.** 302.045 (3m) (e) of the statutes is created to read:

12 302.045 (3m) (e) A person released under this subsection, his or her residence,
13 and any property under his or her control may be searched by a law enforcement
14 officer at any time during his or her period of supervision if the officer reasonably
15 suspects that the person is committing, is about to commit, or has committed a crime
16 or a violation of a condition of release to extended supervision. Any search conducted
17 pursuant to this paragraph shall be conducted in a reasonable manner and may not
18 be arbitrary, capricious, or harassing. A law enforcement officer who conducts a
19 search pursuant to this paragraph shall, as soon as practicable after the search,
20 notify the department.

SENATE BILL 40

1 **SECTION 3.** 302.05 (3) (c) 4. of the statutes is created to read:

2 302.05 **(3)** (c) 4. A person released under this paragraph, his or her residence,
3 and any property under his or her control may be searched by a law enforcement
4 officer at any time during his or her period of supervision if the officer reasonably
5 suspects that the person is committing, is about to commit, or has committed a crime
6 or a violation of a condition of release to extended supervision. Any search conducted
7 pursuant to this subdivision shall be conducted in a reasonable manner and may not
8 be arbitrary, capricious, or harassing. A law enforcement officer who conducts a
9 search pursuant to this subdivision shall, as soon as practicable after the search,
10 notify the department.

11 **SECTION 4.** 302.11 (6m) of the statutes is created to read:

12 302.11 **(6m)** A person released under this section, his or her residence, and any
13 property under his or her control may be searched by a law enforcement officer at any
14 time during his or her period of supervision if the officer reasonably suspects that the
15 person is committing, is about to commit, or has committed a crime or a violation of
16 a condition of parole. Any search conducted pursuant to this subsection shall be
17 conducted in a reasonable manner and may not be arbitrary, capricious, or
18 harassing. A law enforcement officer who conducts a search pursuant to this
19 subsection shall, as soon as practicable after the search, notify the department.

20 **SECTION 5.** 302.113 (7r) of the statutes is created to read:

21 302.113 **(7r)** A person released under this section, his or her residence, and any
22 property under his or her control may be searched by a law enforcement officer at any
23 time during his or her period of supervision if the officer reasonably suspects that the
24 person is committing, is about to commit, or has committed a crime or a violation of
25 a condition of release to extended supervision. Any search conducted pursuant to

SENATE BILL 40

1 this subsection shall be conducted in a reasonable manner and may not be arbitrary,
2 capricious, or harassing. A law enforcement officer who conducts a search pursuant
3 to this subsection shall, as soon as practicable after the search, notify the
4 department.

5 **SECTION 6.** 302.114 (8g) of the statutes is created to read:

6 302.114 (8g) A person released under this section, his or her residence, and any
7 property under his or her control may be searched by a law enforcement officer at any
8 time during his or her period of supervision if the officer reasonably suspects that the
9 person is committing, is about to commit, or has committed a crime or a violation of
10 a condition of release to extended supervision. Any search conducted pursuant to
11 this subsection shall be conducted in a reasonable manner and may not be arbitrary,
12 capricious, or harassing. A law enforcement officer who conducts a search pursuant
13 to this subsection shall, as soon as practicable after the search, notify the
14 department.

15 **SECTION 7.** 304.02 (2m) of the statutes is created to read:

16 304.02 (2m) A person released under this section, his or her residence, and any
17 property under his or her control may be searched by a law enforcement officer at any
18 time during his or her period of supervision if the officer reasonably suspects that the
19 person is committing, is about to commit, or has committed a crime or a violation of
20 a condition of parole. Any search conducted pursuant to this subsection shall be
21 conducted in a reasonable manner and may not be arbitrary, capricious, or
22 harassing. A law enforcement officer who conducts a search pursuant to this
23 subsection shall, as soon as practicable after the search, notify the department.

24 **SECTION 8.** 304.06 (1r) of the statutes is created to read:

SENATE BILL 40

1 304.06 (1r) A person released under this section, his or her residence, and any
2 property under his or her control may be searched by a law enforcement officer at any
3 time during his or her period of supervision if the officer reasonably suspects that the
4 person is committing, is about to commit, or has committed a crime or a violation of
5 a condition of parole. Any search conducted pursuant to this subsection shall be
6 conducted in a reasonable manner and may not be arbitrary, capricious, or
7 harassing. A law enforcement officer who conducts a search pursuant to this
8 subsection shall, as soon as practicable after the search, notify the department.

9 **SECTION 9.** 973.09 (1d) of the statutes is created to read:

10 973.09 (1d) A person who is placed on probation, his or her residence, and any
11 property under his or her control may be searched by a law enforcement officer at any
12 time during his or her period of supervision if the officer reasonably suspects that the
13 person is committing, is about to commit, or has committed a crime or a violation of
14 a condition of probation. Any search conducted pursuant to this subsection shall be
15 conducted in a reasonable manner and may not be arbitrary, capricious, or
16 harassing. A law enforcement officer who conducts a search pursuant to this
17 subsection shall, as soon as practicable after the search, notify the department of
18 corrections.

19 **SECTION 10. Initial applicability.**

20 (1) This act first applies to a person who is placed on probation, released on
21 parole, or released to extended supervision on the effective date of this subsection.

22

(END)