



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 79
[2013 Senate Bill 40]

**Searches by Law Enforcement of a
Person on Probation, Parole, or
Extended Supervision**

CURRENT LAW

Under current law, a person is under field supervision by the Wisconsin Department of Corrections (DOC) if a court has placed the person on probation, extended supervision, or parole. Conditions for the person's field supervision may be imposed by the court, DOC, the Parole Commission, or the field agent assigned to supervise the person. If a person violates a condition of the field supervision, the status may be revoked.

Among the conditions, a person under field supervision is required to submit to any search ordered by the field agent of the person, the person's residence, or of any property under the person's control. A search of living quarters may be made if the field agent has reasonable grounds to believe the property contains contraband or the person is deemed to have violated a condition of the field supervision. A field agent must obtain approval from a supervisor before conducting a search of a residence, unless there are exigent circumstances, such as a suspicion that the person will destroy contraband, use a weapon, or elude apprehension. A search of the person's body includes samples of urine, breath, saliva, blood, hair, or stool. [ss. DOC 328.21 and 328.04 (3) (k), Wis. Adm. Code.]

Also under current law, a law enforcement officer may search a person stopped for temporary questioning in order to search for weapons or instruments capable of causing injury, if the officer reasonably suspects that the person may be armed and dangerous. This is known as a "stop-and-frisk," "investigative stop," or "Terry stop," from the U.S. Supreme Court case that first recognized this law enforcement procedure. [ss. 968.24 and 968.25, Stats.; *Terry v. Ohio*, 392 U.S. 1 (1968).]

THE ACT

The Act specifies that a law enforcement officer may require certain persons under field supervision to submit to a search of the person, the person's residence, or of any property under the person's control, 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 the field supervision. The persons that a law enforcement officer may require to submit to a search is limited to persons under field supervision for a

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

felony conviction and persons placed on probation for any violation of chs. 940, 948, and 961, Stats. (These chapters concern crimes against life and bodily security, crimes against children, and the Uniform Controlled Substances Act.) Under the Act, a search conducted under this authority must be conducted in a reasonable manner, and cannot be arbitrary, capricious, or harassing. The Act also provides that a law enforcement officer who has conducted such a search must notify DOC as soon as practicable after the search.

Effective date and initial applicability: The Act took effect on December 14, 2013. The Act first applies to a person who is placed on probation, parole, or extended supervision on the Act's effective date.

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