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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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<b>2013 Senate Bill 40</b>	<b>Senate Amendment 1</b>
<i>Memo published: September 16, 2013</i> <i>Contact: Michael Queensland, Staff Attorney (266-3810)</i>	

**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 BILL**

The bill specifies that a law enforcement officer may require a person 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. A search conducted under this authority must be conducted in a reasonable manner, and cannot be arbitrary, capricious, or harassing.

The bill additionally provides that a law enforcement officer who has conducted such a search must notify DOC as soon as practicable after the search.

**SENATE AMENDMENT 1**

The amendment narrows the application of the bill to a person under field supervision for a felony conviction and a person 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.)

**BILL HISTORY**

Senate Amendment 1 was introduced by the Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs on September 5, 2013. On the same day, the committee recommended adoption of the amendment and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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