

March 14, 2013

The Honorable Jerry Petrowski, Chair
Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs
Room 425 Southwest
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

PUBLIC HEARING: Senate Bill 40 - Searches by law enforcement officers of persons on probation, parole or extended supervision.

Good Morning,

My name is Bob Wallace and I am a Captain with the Sheboygan Police Department. I have been a Wisconsin police officer for the past 32 years.

I would like to begin by thanking Chairman Petrowski and the members of this committee for the opportunity to speak in support of Senate Bill 40.

It is our responsibility in government and law enforcement to take reasonable measures to protect our citizens from crime. To that end, it is the objective of SB 40 is to enhance public safety by protecting citizens from re-victimization and to prevent the recidivism of supervised offenders.

SB 40 will establish a Wisconsin law with respect to the authority of police officers to conduct searches of the person, residence, and property under the control of offenders who are under the active supervision of the Department of Corrections. The standard for such a search is that the officer must be able to articulate a reasonable suspicion that the individual to be searched is committing, is about to commit, or has committed a crime or a violation of a condition of probation or release. Similar legislation has been utilized for many years, and to good effect in other states including California, where there is no "reasonable suspicion" requirement as part of the law.

It is well recognized and understood that a small percentage of society is responsible for committing a disproportionate share of a community's crime. SB 40 recognizes this fact and directs law enforcement resources directly to that population.

Police Officers are on duty in our neighborhoods 24 hours a day, 7 days a week and they frequently receive information about the criminal activities of offenders living or working in their communities who are on supervised release. Frequently that information may NOT meet the "probable cause" standard required for a search warrant; but may very well meet the "reasonable suspicion" requirement in SB 40. This legislation will enable those officers to act immediately to intervene and investigate that criminal conduct.

It must be noted here that under current case law, a police officer who possesses reasonable suspicion that an offender who is on supervision is engaging in criminal conduct is PROHIBITED from asking the probation agent to conduct a search of the offender's person or property. The courts have ruled that to do so would be using the probation officer as an agent of law enforcement and that this would violate the constitutional rights of the offender. The effect is that in the absence of SB 40, the current case law protects the offender from being apprehended. SB 40 will remedy this legal loophole by creating state law that provides law enforcement officers the authority to take immediate action that is lawful and efficient to investigation crimes committed by offenders while on DOC supervision.

It should be further noted that SB 40 has no impact whatsoever on offenders who choose to obey the law and the conditions of their release while on supervision.

The question of the legality of the legal principals supporting SB 40 has been asked and answered in the Wisconsin Supreme Court as well as The United States Supreme Court.

SB 40 is without question lawful and constitutional. In support of this assertion I offer the following cases:

Griffin v. Wisconsin (U.S. Supreme Court)
Wisconsin v. Rowan (WI. Supreme Court)
United States v. Knights (U.S. Supreme Court)
Samson v. California (U.S. Supreme Court)

In all of the cases that I have cited, the Supreme Court has made it clear that offenders on supervised release sacrifice some of the constitutional rights that other law abiding citizens enjoy during the time that they are under supervision. In support of SB 40, I can tell you that Wisconsin Probation Agents have had this same search authority for many years. Unfortunately, our probation and parole agents do not have a 24 hour a day / 7 day a week presence in our neighborhoods; they are not law enforcement officers; and they are not armed. It would not be economical, safe, or practical to expand the hours or the scope of their duties.

SB 40 requires that if a police officer conducts a search under the authority of SB 40, the law enforcement officer is REQUIRED to notify the DOC as soon as practicable afterwards. Supervised offenders are also required to notify their assigned probation / parole agent of all "police contacts." Thus the application of this law will be open, transparent, and subject to the scrutiny and monitoring of the DOC as well as the involved law enforcement agency.

Critics of SB 40 have made the attribution that SB 40 "goes against a trend in many states, including Wisconsin, to look for ways to break the cycle of probation violations resulting in imprisonment."

This argument seems to imply that it is somehow better for the rehabilitation of the offender and the safety of society, that the offender's criminal violations of the law or the rules of supervision go undetected and unabated. I think that most law abiding citizens would disagree.

The potential for criminal deterrence resulting from SB 40 cannot be overstated.

SB 40 does not provide any authority to law enforcement over potential DOC sanctions or the DOC decision to return an offender to prison. The decisions related to offender sanctions for violations of conditions of release rests solely with the DOC.

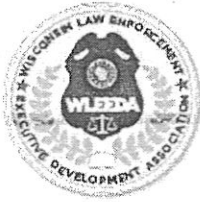
SB 40 presents a truly unique opportunity to enhance the level and quality of offender supervision in the State of Wisconsin. More importantly it does so without the expense of adding personnel or in any way increasing the tax burden on our communities.

Public safety is a big concern across our country and our state. The provisions of SB 40 represents a legally sound, fiscally responsible, and proactive measure that Wisconsin can take to focus resources directly on crime and the population of society that we know are most prone to continue in criminal activity. SB 40 will strengthen offender supervision across Wisconsin and give police the authority that is necessary to act immediately to intervene in crimes by offenders on conditional release in our communities. In effect we will be making better and more complete use of government resources to achieve the objective of preventing crime and reducing recidivism.

Thank you for the opportunity to support this important legislation.

Bob Wallace, Captain
Sheboygan Police Department





Wisconsin Law Enforcement Executive Development Association

www.WLEEDA.com

March 11, 2013
Senator Joe Leibham
Wisconsin State Senate
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Leibham,
The Wisconsin Law Enforcement Executive Development Association has been following 2013 Senate Bill 40 relating to the enhanced supervision of those individuals currently under the supervision by the Wisconsin Department of Corrections. We feel that this Bill enhances law enforcement officer's abilities to protect the public and is a valuable investigative tool and will aid in the swift apprehension of criminal suspects.

We believe it is important that this bill includes safeguards for individuals who may be affected. This includes the requirement that a law enforcement officer have reasonable suspicion prior to the search and that it not be conducted in an arbitrary, capricious or harassing manner.

Our organization represents law enforcement supervisors throughout Wisconsin. Part of our mission is to establish Wisconsin as a leader in promoting professional, progressive, innovative and high quality police executive training while developing a pool of professional, knowledgeable and informed police executives creating a positive influence on the future of policing in Wisconsin. As such, we believe this Bill will enhance today's and tomorrow's law enforcement leaders with tools to better protect the citizen's of our great state.

Thank you for your support of the law enforcement community and your committed efforts to keep Wisconsin residents safe.

Sincerely,

Lamont Strandberg
President

Wisconsin Law Enforcement Executive Development Association
Waukesha County Sheriff's Department
515 W. Moreland Blvd.
Waukesha, WI 53188



Wisconsin State Lodge *Fraternal Order of Police*



Don Kapla – President
dkapla455@policeone.com

Andy Opperman - Secretary
sarge62002@yahoo.com

February 23, 2013

Senator Joseph Leibham
Wisconsin State Senate
PO Box 7882
Madison, WI 53707-7882

Dear Senator Leibham,

The Fraternal Order of Police (FOP) is the largest organization of Law Enforcement Officers in the country, with over 325,000 members. One of the primary missions of the FOP is to enhance the working conditions of these Officers that our membership encompasses, and take the necessary steps to help ensure their safety and enhance their ability to successfully perform their jobs. On behalf of the Wisconsin State Lodge Fraternal Order of Police (WI FOP), I am very pleased to express our full support of LRB 0294/3.

As you are aware, this bill will extend the authority currently granted only to certain DOC officers to all law enforcement officers throughout the State. We believe this bill will be a powerful investigative tool that will assist law enforcement officers in keeping the citizens of this great state safe, and aid in the swift apprehension of criminal suspects.

It is also important that the bill has included important safeguards for the individuals who would be effected, including the requirement that a law enforcement officer have reasonable suspicion prior to conducting the search, as well as the fact that the search may not be conducted in an arbitrary, capricious, or harassing fashion. As another measure of accountability, the bills also requires the law enforcement officer notify the DOC after conducting such a search.

We are very excited about the passage of this bill, and ask for you to support LRB 0294/3.
Thank you for your time and consideration in this matter.

Respectfully,

Don Kapla, President
WI State Lodge FOP
www.wifop.org

Federal Bureau of Investigation
Agents Association

March 13, 2013

Senator Joseph K. Leibham
Wisconsin State Senate
15 South, Capitol
P.O. Box 7882
Madison, WI 53707

Representative Michael Endsley
Wisconsin State Assembly
219 North, Capitol
P.O. Box 8952
Madison, WI 53708

Re: Reasonable Searches of Persons on Parole and Probation

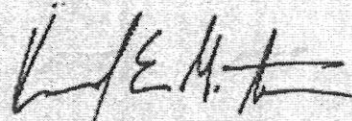
Dear Senator Leibham and Representative Endsley:

I write today on behalf of the FBI Agents Association (FBIAA), a voluntary professional association currently representing over 12,000 active duty and retired FBI Special Agents. We appreciate your efforts to enact legislation clarifying and codifying the ability of law enforcement officers to conduct certain searches of persons on probation and parole.

The U.S. Supreme Court's decision in *Samson v. California* and the Wisconsin Supreme Court's more recent decision in *State v. Rowan* make it clear that law enforcement officers can constitutionally conduct reasonable searches of parolees and persons on probation without a warrant. Accordingly, the FBIAA supports efforts to enact legislation that provides a predictable and reliable context for these searches, and believes that your legislation would advance this cause.

This legislation is reasonable and will help law enforcement officers protect the public. Accordingly, we hope that the State of Wisconsin will enact your proposed legislation in a timely manner.

Sincerely,



Konrad Motyka, President
FBI Agents Association

Post Office Box 320215 • Alexandria, Virginia 22320
A Non-Governmental Association
(703) 247-2173 Fax (703) 247-2175
E-mail: fbiaa@fbiaa.org www.fbiaa.org

Wisconsin Chiefs of Police Association, Inc.

River Ridge - 1141 South Main Street, Shawano, Wisconsin 54166 • Telephone (715) 524-8283

Steven J. Riffel
President
Sheboygan Falls

Jed M. Dolnick
1st Vice President
Jackson

Thomas Czaja
2nd Vice President
Fox Point

Dave Funkhouser
3rd Vice President
Kiel

Donald L. Thaves
Executive Director
Shawano

Randy Boeldt
Treasurer
Elkhart Lake



February 14, 2013

Senator Joe Leibham
Wisconsin State Senate
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Leibham:

The Wisconsin Chiefs of Police Association has been following the matter of enhanced supervision of those under administrative supervision by the Wisconsin Department of Corrections as a matter of mutual public safety. Specifically, the research and work the City of Sheboygan Police Department has done relating to this matter.

I would like to take this opportunity to inform you of that the Wisconsin Chiefs of Police Association is in full support of this in regards to LRB 0294/3. This legislation relates to searches by a law enforcement officer of a person on probation, parole, or extended supervision. We believe this law would be extremely valuable as an investigative tool.

If you require further information or clarification please do not hesitate to contact me. Thank you for your service to the citizens of our communities.

Sincerely,

Steven J. Riffel
President, Wisconsin Chiefs of Police Association
Chief of Police / Director of Public Safety
City of Sheboygan Falls Police & Fire Departments
375 Buffalo Street
Sheboygan Falls, WI 53085
(920) 467-7902
sriffel@sheboyganfallspolice.com

SJR/jl

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Room 425 Southwest
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PUBLIC HEARING: Senate Bill 40 – Searches by law enforcement officers of persons on probation, parole or extended supervision.

Good Morning,

My name is Tamara Remington and I am a Detective at Sheboygan Police Department. I have been a police officer in Wisconsin for over 7 years. I moved to Wisconsin from California, where I had been a police officer at San Jose Police Department (SJPD) for over 10 years. While at San Jose PD, I was a Gang Detective, assigned to any gang related crimes and violence in the city.

As a police officer in California, I relied on the ability to perform probation/parole searches, to solve crimes and also to prevent further crimes. I thoroughly believe that the ability to perform such searches helped us law enforcement officers to help keep the community a safer place and address crimes more effectively. When I was at San Jose Police Department, San Jose (a city of almost a million) was the safest big city in the nation.

During my ten years at San Jose PD, I conducted and assisted in hundreds of probation/parole searches. We solved many drive-by shootings and gang related assaults through such probation/parole searches and located guns/weapons and additional evidence during such searches, and were able to prevent further gang violence and retaliation.

Frequently found at drive-by shootings, one gang would yell out their gang just before shooting a rival gang member. After many of these gang crimes, police often receive information about pending retaliations. By being able to conduct probation/parole searches, law enforcement could search the probationers/parolees' residences of those we had information about involvement in planning a gang related retaliation. Numerous times we located handguns and sawed off shotguns, as well as gang evidence/indicia while conducting probation/parole searches of the rival gang members who had started out as the victim gang, but vowed retaliation. By law enforcement locating these weapons, we did prevent that planned retaliation, stopping the cycle of violence regarding that particular situation.

Other crimes that were solved through conducting probation/parole searches include home invasion robberies, burglaries, drug manufacture and distribution and homicides. Additionally, I recall one parole search that resulted in us recovering a slave of the sex trafficking industry.

When I moved to Wisconsin and joined Sheboygan Police, I was shocked to find that law enforcement officers are PROHIBITED from conducting or assisting in probation/parole searches. Such searches have been a relied upon tool in many states, including California, and I couldn't fathom effective and efficient police work without such a law/tool for law enforcement.

Since I have been a police officer in Wisconsin, I have experienced numerous cases where the ability to conduct probation/parole searches would have been extremely beneficial for not only the solving of crimes but also the prevention of additional crimes and retaliations, recovering stolen property, locating valuable evidence and weapons and locating missing/runaway at risk juveniles, being harbored by human traffickers.

Recently, I recall two serial burglars, both on probation in Sheboygan. We developed information that these subjects may be involved with the serial burglaries of residences and businesses in Sheboygan. I wished we had the ability to conduct probation searches, to solve these burglaries throughout Sheboygan and put an end to the chronic victimization, and to recover the hard earned property for all of the victims.

I also recall a gang related homicide and multiple retaliation shootings into occupied dwellings, where this gang related violence could have been prevented if we, law enforcement, could conduct probation searches of the many gang members on probation who were involved in the gang violence/weapon possession, and we could have recovered the guns prior to the escalation to the homicide. Multiple gang members involved in the gang rivalry in Sheboygan were on probation/parole, and had law enforcement been able to conduct the probation/parole searches, I believe the guns used in the ongoing shootings would have been confiscated and prevented the continued shootings.

I sincerely believe that passing bill SB40 would help in the prevention of crime, assist in solving crimes and help keep Wisconsin a safer place. Problems are coming to Wisconsin from out of state, and Wisconsin must keep up with the times. Criminals are extremely mobile and I encounter gang members arriving from California to Wisconsin on a monthly basis, often bringing with them the ways they conducted their gang violence in California. This is something that we do not want to have in Wisconsin, but without bill SB40, probationers/parolees will find Wisconsin a very attractive place to conduct crime.

Thank you for your time.

Sincerely,

Detective Tamara Remington
Sheboygan Police Department
Criminal Investigation Division



March 14, 2013

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Room 425 Southwest
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Critics of SB 40 have made the attribution that SB 40 "goes against a trend in many states, including Wisconsin, to look for ways to break the cycle of probation violations resulting in imprisonment."

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SB 40 presents a truly unique opportunity to enhance the level and quality of offender supervision in the State of Wisconsin. More importantly it does so without the expense of adding personnel or in any way increasing the tax burden on our communities.

Public safety is a big concern across our country and our state. The provisions of SB 40 represents a legally sound, fiscally responsible, and proactive measure that Wisconsin can take to focus resources directly on crime and the population of society that we know are most prone to continue in criminal activity. SB 40 will strengthen offender supervision across Wisconsin and give police the authority that is necessary to act immediately to intervene in crimes by offenders on conditional release in our communities. In effect we will be making better and more complete use of government resources to achieve the objective of preventing crime and reducing recidivism.

Thank you for the opportunity to support this important legislation.

Bob Wallace, Captain
Sheboygan Police Department



WISCONSIN PROFESSIONAL POLICE ASSOCIATION

Law Enforcement Employee Relations Division • Supervisory Officers Relations Division • Civilian Employees Relations Division

March 14, 2013

The Honorable Jerry Petrowski, Chair
Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs
Room 123 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

RE: Statement to be Distributed to Committee Members for the March 14, 2013
Hearing on 2013 Senate Bill 40.

Mr. Chairman and Distinguished Members of the Committee:

Representing nearly 10,000 members from more than 275 local association affiliates, the Wisconsin Professional Police Association is the state's largest law enforcement group. Our mission is to protect and promote public safety, as well as the interests of the dedicated men and women that serve to provide it. I write to share the WPPA's ardent **SUPPORT of Senate Bill 40**, relating to law enforcement searches of individuals on probation, parole, or extended supervision, which we believe will effectively serve that end.

Alternatives to incarceration, such as probation, parole, or extended supervision can provide a variety of benefits, from helping repair the harms suffered by the victims of crime, requiring community service, treating those who suffer from addiction and mental illness, and rehabilitating offenders. Ideally, they can also save taxpayers money by reducing the costs of imprisonment and recidivism. The potential success of these alternatives to spare public dollars and improve public safety undoubtedly rests in large part on the law enforcement community's ability to enforce the terms to which individuals avoiding incarceration must adhere.

As currently provided under Wisconsin's statutes and the applicable judicial precedent, certain officers employed by the Department of Corrections (DOC) have the authority to search a person that is on probation, parole, or extended supervision, if they reasonably suspect that a person under supervision is committing, about to commit, or has committed a crime or a violation of a condition of probation or supervision. Senate Bill 40 simply extends this existing authority to any law enforcement officer, whose consistent and around-the-clock presence will serve a much more effective role in detecting crimes and deterring recidivism.



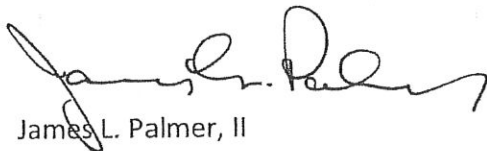
Certain opponents of this legislation will suggest that extending to all law enforcement officers the same search authority that is currently exercised by DOC officers will somehow compromise the integrity of the Fourth Amendment protections against unreasonable searches and seizures. Such an assertion is illogical, entirely without foundation, and insulting to the men and women who safeguard our communities. In fact, the senseless arguments that these critics pose have more to do with the current law than anything included in Senate Bill 40.

Allowing certain offenders to avoid imprisonment can serve a legitimate public safety purpose, but only if we ensure that we are doing all that we can to hold them accountable and protect the safety of our communities. Senate Bill 40's proposed extension of an existing search authority to officers who work on a 24/7 basis and who offer a consistent presence in our neighborhoods will do much to enhance the efficacy of these alternatives to incarceration.

On behalf of the many WPPA members who help make Wisconsin a safe place in which to live, work, and raise a family, I urge you to support Senate Bill 40, and I thank you for your time and your consideration.

Respectfully,

THE WISCONSIN PROFESSIONAL POLICE ASSOCIATION



James L. Palmer, II
Executive Director



**SHEBOYGAN PROFESSIONAL
POLICE ASSOCIATION**
P.O. BOX 341, SHEBOYGAN, WI 53082

Senator Joe Leibham

Representative Mike Endsley

February 15, 2013

Dear Sirs,

Please consider this letter as a strong show of support for **LRB 0294/3 and LRB 1370/1 relating to: searches of persons on probation, parole, or extended supervision** from the membership of the Sheboygan Professional Police Officer's Association (SPPA). Your continued efforts to support the bill are greatly appreciated. The membership and the executive board of the SPPA believe that the bill would assist law enforcement across the State of Wisconsin in providing enhanced public protections for our citizenry.

The men and women of the SPPA are 64 members strong and each of us would like to this opportunity to thank you for your support of the bill. Furthermore, thank you for your committed support of the law enforcement officers and our efforts to keep the residents of Wisconsin safe.

Respectively,

Piotr Gordziej (President-SPPA)

Matthew Walsh (Vice President-SPPA)