

Clearinghouse Rule 98-208

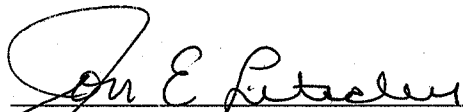
STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

I, Jon E. Litscher, Secretary, Department of Corrections, and custodian of the official records, certify that the annexed rules, relating to search and seizure of probation and parole offenders was duly approved and adopted by the Department and will be effective July 1, 1999.

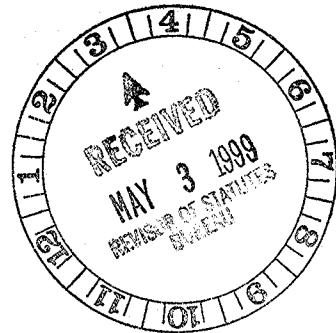
I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Corrections
149 E. Wilson Street in the City of
Madison, this 30 day of April, 1999.

SEAL



Jon E. Litscher
Secretary



7-1-99
98-208

PROPOSED ORDER OF
DEPARTMENT OF CORRECTIONS
PROMULGATING RULES
DOC 328.21 (3) and (7)



Under the authority vested in the Department of Corrections by ss. 227.11(2), and 973.10, Stats., the Department of Corrections hereby proposes an order to amend DOC 328.21 (3) and (7) (intro.), relating to the search and seizure of probation or parole offenders.

Statutory authority: ss. 227.11 (2), and 973.10, Stats.

Statutes interpreted: ss. 973.10 (1) and (2), Stats.

Analysis Prepared by the Department of Corrections

The current administrative rule Ch. DOC 328.21 (3) and (7), allows the Department of Corrections to search an offenders residence for contraband. The amended rule will enlarge this authority and allow the Department to search an offender's residence for an offender as well as contraband. The rule is pursuant to a legislative enactment that provided funding for the Department of Corrections to create an absconder unit in southeastern Wisconsin. The rule will make community supervision more meaningful and promote accountability among offenders by allowing the Department of Corrections to search the residences of offenders who are not in compliance with the rules of supervision.

This amended rule substitutes the term "offender" as defined in Ch. DOC 328.03 (24), for the term "client." Recent rules submitted by the Department implement the use of the term "offender" rather than "client" when referring to a person on field supervision. During 1999 the Department plans to submit comprehensive amendments to Ch. DOC 328. Those amendments will substitute the term "offender" for the term "client" throughout the rule.

SECTION 1. DOC 328.21 (3) is amended to read:

DOC 328.21 (3) SEARCH OF LIVING QUARTERS OR PROPERTY. (a) A search of a ~~client's~~ an offender's living quarters or property may be conducted by field staff if there are reasonable grounds to believe that the quarters or property contain contraband or an offender who is deemed to be in violation of supervision. Approval of the supervisor shall be obtained unless exigent circumstances, such as suspicion the ~~parolee~~ offender will destroy contraband, ~~or~~ use a weapon or elude apprehension, require search without approval.

SECTION 2. DOC 328.21 (7) (intro.) is amended to read:

DOC 328.21 (7) REASONABLE GROUNDS. In deciding whether there are reasonable grounds to believe that a ~~client~~ an offender has used, possesses or is under the influence

of an intoxicating substance, that ~~a client~~ an offender possesses contraband ~~or~~, that ~~a client's~~ an offender's living quarters or property contains contraband or that an offender in violation of supervision is located at the offender's residence, a staff member shall consider any of the following:

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

By Jon E. Litscher
Jon E. Litscher, Secretary

Dated: 4/29/99

SEAL:

Tommy G. Thompson
Governor

Jon E. Litscher
Secretary



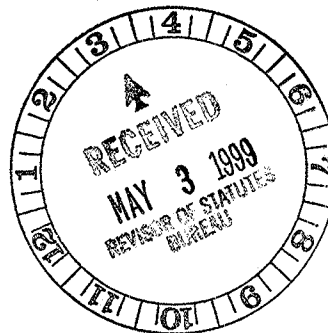
State of Wisconsin
Department of Corrections

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April 28, 1999

Bruce Munson
Revisor of Statutes Bureau
131 West Wilson Street, Room 800
Madison, Wisconsin 53703-3222



Dear Mr. Munson:

Pursuant to s. 227.20 Stats., the Department of Corrections submits a certified and uncertified copy of DOC 328.21 (3) and (7), relating to the search and seizure of probation and parole offenders. The Department needs this rule to be effective by July 1, 1999, so that there will not be a gap between the emergency rule and the permanent rule.

If you have any questions, please contact Robert G. Pultz, Office of Legal Counsel, at (608) 267-0922.

Sincerely,

A handwritten signature in cursive script that reads "Jon E. Litscher".

Jon E. Litscher
Secretary

Attachment