



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/16/2008 (Per: RPN/RLR)



 Appendix A ... Part 08 of 16

 The 2007 drafting file for LRB-2341/1

has been transferred to the drafting file for

**2007 LRB-0517**

**(AB 400 ... Wisconsin Act 200)**

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were added, as a appendix, to the new 2007 drafting file. This section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



**Nelson, Robert P.**

---

**From:** Barron, Julio R Lt Col NGWI [julio.barron2@us.army.mil]  
**Sent:** Wednesday, April 11, 2007 3:43 PM  
**To:** Sweet, Richard; Dziobkowski, David M Maj NGWI; Milsap, Randi - DMA; Olson, Larry L. Mr NGWI; Rep.Schneider; Shannon, Pam; Terry McArdle; Nelson, Robert P.; Ryan, Robin  
**Subject:** RE: Ch. 322

Ladies and Gentlemen -

I believe the last sentence in s. 322.01(23) should read as follows: " The unorganized militia, state defense force, state national guard, home guard or any other named state force that does not meet this definition will be deemed to be part of the "state military forces" under this Code."

The National Guard does not accept credit cards because our courts-martial will not be equipped to process this term of payments. However, we should add cashiers checks as a method of accepting payment in Article 142 (1)(a).

Bob - Can you send us a version that we are able to edit in the event we find and propose changes?

v/r,

Lt Col Julio R. Barron  
Staff Judge Advocate  
Wisconsin Air National Guard  
2400 Wright Street  
Madison, Wisconsin 53708-8111  
Telephone: 608-242-3077 / DSN 724-3077  
Fax: 608-242-3082 / DSN 724-3082  
julio.barron2@us.army.mil

-----Original Message-----

**From:** Sweet, Richard [mailto:Richard.Sweet@legis.wisconsin.gov]  
**Sent:** Wednesday, April 11, 2007 2:55 PM  
**To:** Barron, Julio R Lt Col NGWI; Dziobkowski, David M Maj NGWI; Milsap, Randi W.; Olson, Larry L. Mr NGWI; Rep.Schneider; Shannon, Pam; Terry McArdle; Nelson, Robert P.; Ryan, Robin; Sweet, Richard  
**Subject:** FW: Ch. 322

Attached is a PDF of the ch. 322 redraft from Bob, with the request that we all look it over before it goes to the editors. Also, a couple of questions from Bob in the forwarded message.

Thanks.

Dick

---

**From:** Nelson, Robert P.  
**Sent:** Wednesday, April 11, 2007 2:31 PM  
**To:** Shannon, Pam; Sweet, Richard; Ryan, Robin  
**Subject:** Ch. 322

<<07-2341/P2>>  
Folks,

Send this on to the others and ask them to read it carefully before I send it into editing. Check it over carefully.

04/12/2007

I have two minor questions: In the definitions, s. 322.01 (23), regarding state military forces, I don't understand the last sentence. Should that be removed?

S. 322.142 talks about the payment of fines and says they may be collected by cash or money order. What about credit cards or cashier

checks

Robert P. Nelson  
Senior Legislative Attorney  
608-267-7511

**Nelson, Robert P.**

---

**From:** Sweet, Richard  
**Sent:** Wednesday, April 11, 2007 3:17 PM  
**To:** Nelson, Robert P.; Ryan, Robin; Shannon, Pam  
**Subject:** FW: Ch. 322

**Attachments:** 07-2341/P2

I did a computer search and found several masculine pronouns that need to be gender-neutralized. Page and line numbers are as follows:

- 9-16 ✓
- 30-5 ✓
- 33-25 ✓
- 40-18 ✓
- 42-6 ✓
- 50-12 ✓
- 59-2 ✓
- 61-20 ✓
- 63-4, 5, 7, 8, 12, 18 ✓
- 64-4(twice), 15 ✓
- 65-2, 7, 9 ✓
- 66-16, 17 ✓
- 68-8 ✓
- 73-22 ✓
- 74-2 ✓
- 75-14

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**From:** Sweet, Richard  
**Sent:** Wednesday, April 11, 2007 2:55 PM  
**To:** 'Barron, Julio R Lt Col NGWI'; Dziobkowski, David M Maj NGWI; Milsap, Randi - DMA; Olson, Larry L. Mr NGWI; Rep.Schneider; Shannon, Pam; Terry McArdle; Nelson, Robert P.; Ryan, Robin; Sweet, Richard  
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**Sent:** Wednesday, April 11, 2007 2:31 PM  
**To:** Shannon, Pam; Sweet, Richard; Ryan, Robin  
**Subject:** Ch. 322

**Nelson, Robert P.**

---

**From:** Barron, Julio R Lt Col NGWI [julio.barron2@us.army.mil]  
**Sent:** Thursday, April 12, 2007 9:24 AM  
**To:** Nelson, Robert P.; Sweet, Richard  
**Subject:** RE: Ch. 322

Feel free to delete the last sentence in s. 322.01(23).

-----Original Message-----

**From:** Nelson, Robert P. [mailto:Robert.Nelson@legis.wisconsin.gov]  
**Sent:** Thursday, April 12, 2007 9:15 AM  
**To:** Barron, Julio R Lt Col NGWI; Sweet, Richard  
**Subject:** RE: Ch. 322

Julio,

I cannot give you a version that can be edited because it is now in our system. Instead, send me any changes that you want and I will add them to the draft.

I saw your response to Dick's question about the last sentence in the definition of "military forces" and your suggestion below. I don't think we need to mention the state defense force or national guard in the second sentence because are already in the first sentence. The first sentence also says that the definition does not include the unorganized militia, state guard, or home guard except in certain situations, while the second sentence says they are included in the definition in all situations. One of those statements is wrong, since they are in direct conflict with each other.

Bob N

---

**From:** Barron, Julio R Lt Col NGWI [mailto:julio.barron2@us.army.mil]  
**Sent:** Wednesday, April 11, 2007 3:43 PM  
**To:** Sweet, Richard; Dziobkowski, David M Maj NGWI; Milsap, Randi - DMA; Olson, Larry L. Mr NGWI; Rep.Schneider; Shannon, Pam; Terry McArdle; Nelson, Robert P.; Ryan, Robin  
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Lt Col Julio R. Barron  
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2400 Wright Street  
Madison, Wisconsin 53708-8111  
Telephone: 608-242-3077 / DSN 724-3077  
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julio.barron2@us.army.mil

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04/12/2007

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**To:** Barron, Julio R Lt Col NGWI; Dziobkowski, David M Maj NGWI; Milsap, Randi W.; Olson, Larry L. Mr NGWI; Rep.Schneider; Shannon, Pam; Terry McArdle; Nelson, Robert P.; Ryan, Robin; Sweet, Richard  
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**Sent:** Wednesday, April 11, 2007 2:31 PM  
**To:** Shannon, Pam; Sweet, Richard; Ryan, Robin  
**Subject:** Ch. 322

<<07-2341/P2>>

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checks

Robert P. Nelson  
Senior Legislative Attorney  
608-267-7511

**Nelson, Robert P.**

---

**From:** Barron, Julio R Lt Col NGWI [julio.barron2@us.army.mil]  
**Sent:** Tuesday, May 08, 2007 4:12 PM  
**To:** Sweet, Richard; Randi.Milsap@wisconsin.gov; terrymcardle@merr.com; Olson, Larry L. Mr NGWI; Nelson, Robert P.; Ryan, Robin  
**Subject:** Re: Leg Council Prefatory Note-ch. 322(WCMJ)

No. The authority I cited was from the committee comment. Absent the comments, the article could be misleading.

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Sent from Lt Col Barron's BlackBerry

----- Original Message -----

From: Sweet, Richard <Richard.Sweet@legis.wisconsin.gov>  
To: Barron, Julio R Lt Col NGWI; Milsap, Randi - DMA <Randi.Milsap@wisconsin.gov>; Terry McArdle <terrismcardle@merr.com>; Olson, Larry L. Mr NGWI; Nelson, Robert P. <Robert.Nelson@legis.wisconsin.gov>; Ryan, Robin <Robin.Ryan@legis.wisconsin.gov>  
Sent: Tue May 08 15:53:00 2007  
Subject: RE: Leg Council Prefatory Note-ch. 322(WCMJ)

Julio,

Your suggested language looks fine. I think the original language was taken verbatim from Article 2(1). Do you think that the language of that article needs to be clarified?

Thanks.

Dick

---

From: Barron, Julio R Lt Col NGWI [mailto:julio.barron2@us.army.mil]  
Sent: Tuesday, May 08, 2007 11:01 AM  
To: Milsap, Randi - DMA; Terry McArdle; Olson, Larry L. Mr NGWI; Sweet, Richard; Nelson, Robert P.; Ryan, Robin  
Subject: RE: Leg Council Prefatory Note-ch. 322(WCMJ)

Ladies and Gentlemen -

Thank you for the opportunity to comment on the attached.

I offer only one suggestion:

Page 2, paragraph 3, states, in part: "Clarifies that the WCMJ applies only to members of the state military forces at all times, . . . ."

Under *Solorio v. United States*, 483 U.S. 435 (1987), the WCMJ applies only if a nexus exists to the military. In essence, jurisdiction is based on the following: (1) The military offenses applies when members of the state military forces are in a duty status; (2) Non-military offenses may apply to state military forces in a duty status if a nexus exists between the non-military offense and the state military forces; (3) The military offenses apply when members of the state military forces are in a non-duty status if a nexus exists between the military offense and the state military forces and; (4) Non-military offenses may apply to state military forces in a non-duty status if a nexus exists between the non-military offense and the state military forces.

I recommend revising page 2, paragraph 3 to read: "Clarifies that the WCMJ

applies to members of the state military forces if they are in a duty status or a nexus exists to the military.

Hope this helps. Thanks again.

v/r,

Lt Col Julio R. Barron  
Staff Judge Advocate  
Wisconsin Air National Guard  
2400 Wright Street  
Madison, Wisconsin 53708-8111  
Telephone: 608-242-3077 / DSN 724-3077  
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-----Original Message-----

From: Milsap, Randi - DMA [mailto:Randi.Milsap@wisconsin.gov]  
Sent: Tuesday, May 08, 2007 10:26 AM  
To: Barron, Julio R Lt Col NGWI; Terry McArdle  
Subject: FW: Leg Council Prefatory Note-ch. 322 (WCMJ)

Julio & Terry:

Per Pam Shannon's request, I am forwarding the prefatory comment to the draft WCMJ bill draft for your review. See the attachment at the bottom of this e-mail. If possible, Pam would like your comments by the end of today. Thanks!

Randi Wind Milsap

Legal Counsel

WI Dept. of Military Affairs

2400 Wright Street

Madison, WI 53708

Phone: (608) 242-3072; DSN 724-3072

Secure Fax: (608) 242-3082; DSN 724-3082

E-mail: randi.milsap@dma.state.wi.us  
<mailto:randi.milsap@dma.state.wi.us>

-----Original Message-----

From: Shannon, Pam [mailto:Pam.Shannon@legis.wisconsin.gov]  
<mailto:[mailto:Pam.Shannon@legis.wisconsin.gov]>  
Sent: Tuesday, May 08, 2007 8:55 AM

To: Milsap, Randi - DMA  
Subject: FW: Leg Council Prefatory Note-ch. 322(WCMJ)

Hi Randi,

Sorry to bother you but this e-mail just came back undeliverable to Julio and Terry Mc Ardle. Could you please forward it to them--it's the pref note for the ch. 322 draft and I want everybody's sign off on it today if possible. Thanks!

Pam

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From: Shannon, Pam  
Sent: Tuesday, May 08, 2007 8:50 AM  
To: 'Milsap, Randi - DMA'; 'Olson, Larry L. Mr NGWI'; 'Terry McArdle'; 'david.dziobkowski@wimadi.af.mil'; 'julio.'; Hardie, Anthony D - DVA  
Cc: Ryan, Robin; Nelson, Robert P.; Sweet, Richard  
Subject: Leg Council Prefatory Note-ch. 322(WCMJ)

Hi all,

Here's the prefatory note I wrote for the WCMJ bill draft--LRB-2341/P2. Please review it as soon as you can and make sure I've captured enough of the rationale and details. It would have been too long to detail every substantive change so I cite numerous examples of changes, some big some, smaller. Bob Nelson has this ready to go to typing/editing so the sooner you get us any comments the better. We appreciate your help on this. Once we have final drafts and are ready to go to the full committee, we will, of course, let you know. Please send any comments about the pref note to me today if possible, or tomorrow at the latest. Thanks a lot for your help.

Pam Shannon  
Senior Staff Attorney  
Wisconsin Legislative Council  
608/266-2680

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From: Young, Tracey  
Sent: Monday, May 07, 2007 3:31 PM  
To: Shannon, Pam  
Subject: Pref Note Ch. 322

<<ps\_prefnote>>

Tracey Young  
Legislative Council Staff  
608-266-7676  
tracey.young@legis.wisconsin.gov

<mailto:tracey.young@legis.wisconsin.gov>