



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

Date Transfer Requested: 11/03/2008 (Per: CJS)



Appendix A ... Pt. 03 of 04

 The 2007 drafting file for LRB-4378

has been transferred to the drafting file for

2009 LRB-0589

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

TODAY

2007 - 2008 LEGISLATURE

LRB-43780 P1

BJH
ejs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

7.1.06
SA

Revisors' bill
Do NOT Gen Cat
Do NOT Sort

Insert Rel

1 AN ACT relating to: ???

Insert An

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

(END)

BODY OF BILL

2007 BILL

relates to 2007
Wisconsin Act 2000
= Specific changes are

Insert Rel

1 AN ACT relating to: repealing, consolidating, renumbering, amending, and
 2 revising various provisions of the statutes for the purpose of correcting errors,
 3 supplying omissions, correcting and clarifying references, eliminating defects,
 4 anachronisms, conflicts, ambiguities, and obsolete provisions, reconciling
 5 conflicts, and repelling unintended repeals (Correction Bill).

Analysis by the Legislative Reference Bureau

Insert An

This correction bill, prepared by the Legislative Reference Bureau under s. 13.92 (1) (bm) 1. and 2. and (2) (i) and (L), stats., is explained in the NOTES in the body of the bill. In accordance with current drafting style, commas before the last item in a series are added throughout this bill. "Which" is replaced by "that" where grammatically correct. This bill is not intended to make any substantive changes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 5.05 (1) (c) of the statutes, as affected by 2007 Wisconsin Act 1, is
 7 amended to read:

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4378/Plins
BJH:.....

Body
of
BILL

Acts 1 and 200, is amended to read:

as affected

1
2
change component 3 to action: amend

SECTION 1. (The treatment of) 20.455 (1) (b) of the statutes by 2007 Wisconsin

Act 1 is not repealed by 2007 Wisconsin Act 200. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 20.455 (1) (b) reads:

20.455 (1)

change component to text: treat

(b) *Special counsel*. A sum sufficient, subject to the procedures established in ss. 5.05 (2m) (c) and 14.11 (2) (c), for the compensation of special counsel appointed as provided in ss. 5.05 (2m) (c) and 14.11 (2) and 321.42.

change font to 12 point

SECTION 2. 322.001 (4) of the statutes, as created by 2007 Wisconsin Act 200,

is renumbered 322.001 (24m) and amended to read:

322.001 (24m) "Code This code" means this chapter. 2 places

NOTE: "This" is added for clarity. Except in one place, "code" is only used in ch. 322, as created by 2007 Wis. Act 200, in the phrase "this code." Renumbers provision for proper alphabetical placement within list of definitions.

SECTION 3. 322.001 (8) of the statutes, as created by 2007 Wisconsin Act 200,

is amended to read:

322.001 (8) "Duty status other than state active duty" means any other type of duty including ~~Unit Training Assemblies~~ unit training assemblies or drills but excludes duty not in federal service and not full-time duty in the active service of the state; under an order issued by authority of law and includes travel to and from duty.

NOTE: Makes capitalization consistent with current style.

SECTION 4. 322.001 (25) of the statutes, as created by 2007 Wisconsin Act 200,

is amended to read:

322.001 (25) "~~Unit Training Assembly~~ training assembly" means an assembly for drill and instruction which may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the commander, a series of ordered formations of those organizations.

NOTE: Makes capitalization consistent with current style.

use note: std

NOTE: Corrects punctuation.

1 SECTION 5. 322.002 (2) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 322.002 (2) Subject matter jurisdiction is established if a nexus exists between
4 an offense under this code and the state military force. Courts-martial have primary
5 jurisdiction of military offenses ~~as defined in s. 322.001~~. A proper civilian court has
6 primary jurisdiction of a nonmilitary offense when an act or omission violates both
7 this code and local criminal law, foreign or domestic. In this case, a court-martial
8 may be initiated only after the civilian authority has declined to prosecute or
9 dismissed the charge, provided jeopardy has not attached. Jurisdiction over
10 attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be
11 determined by the underlying offense.

NOTE: Deletes unnecessary phrase consistent with current style.

12 SECTION 6. 322.006 (1) of the statutes, as created by 2007 Wisconsin Act 200,
13 is amended to read:

14 322.006 (1) The senior force judge ~~advocates~~ advocate in each of the state's
15 military forces or that judge advocate's delegates shall make frequent inspections in
16 the field in supervision of the administration of military justice in that force.

NOTE: Replaces plural with singular for proper sentence agreement.

17 SECTION 7. 322.007 (1) of the statutes, as created by 2007 Wisconsin Act 200,
18 is amended to read:

19 322.007 (1) In this section, "~~apprehension~~ apprehend" means ~~the taking of to~~
20 take a person into custody.

NOTE: "Apprehension" is not contained in s. 322.007; "apprehend" is.

21 SECTION 8. 322.009 (3) of the statutes, as created by 2007 Wisconsin Act 200,
22 is amended to read:

Insert
1

1 322.009 (3) A commissioned officer, a warrant officer, or a civilian subject to
 2 this code or to trial ~~there under~~ thereunder may be ordered into arrest or
 3 confinement only by a commanding officer to whose authority the person is subject,
 4 by an order, oral or written, delivered in person or by another commissioned officer.
 5 The authority to order persons into arrest or confinement may not be delegated.

NOTE: Makes spelling consistent with the remainder of the statutes.

6 **SECTION 9.** 322.015 (3) (intro.) of the statutes, as created by 2007 Wisconsin Act
 7 200, is amended to read: (intro.)

8 322.015 (3) Any commanding officer of the grade of major or lieutenant
 9 commander, or above, may impose any of the following upon enlisted members of the
 10 officer's command:

NOTE: Inserts comma to correct grammar.

11 **SECTION 10.** 322.026 (2) (c) of the statutes, as created by 2007 Wisconsin Act
 12 200, is amended to read:

13 322.026 (2) (c) ~~Certified~~ Be certified as qualified for duty as a military judge
 14 by the senior force judge advocate ~~which is~~ of the same force as the accused.

NOTE: Inserts "be" for proper sentence agreement with s. 322.026 (2) (intro.).
 Replaces "which is" with "of" to correct grammar consistent with the language of s.
 322.006 (3). 026

15 **SECTION 11.** 322.026 (3) of the statutes, as created by 2007 Wisconsin Act 200,
 16 is amended to read:

17 322.026 (3) In the instance when a military judge is not an attorney licensed
 18 to practice in this state, the military judge shall be deemed admitted on motion,
 19 subject to filing a certificate with the senior force judge advocate of the same force
 20 as the accused setting forth the qualifications provided in sub. (2).

NOTE: ^S Drafting records show that "a certificate" was inadvertently deleted during
 the drafting process.

The Legislative Council Committee file ✓

1 **SECTION 12.** 322.027 (3) (a) of the statutes, as created by 2007 Wisconsin Act
2 200, is amended to read:

3 322.027 (3) (a) A judge advocate ~~as defined in this code.~~

NOTE: Deletes unnecessary phrase consistent with current style. "Judge advocate" ✓
is defined at s. 322.001 (12).

4 **SECTION 13.** 322.027 (4) (intro.) of the statutes, as created by 2007 Wisconsin
5 Act 200, is amended to read:

6 322.027 (4) (intro.) In the instance when a defense counsel is not an attorney
7 licensed to practice in this state, the defense counsel shall be deemed admitted on
8 motion, subject to filing a certificate with the military judge setting forth the
9 qualifications that counsel is all of the following:

NOTE: Drafting records show^s that "a certificate" was inadvertently deleted during ✓
the drafting process. The Legislative Council Committee file

10 **SECTION 14.** 322.027 (4) (a) and (b) of the statutes, as created by 2007 Wisconsin
11 Act 200, are amended to read:

12 322.027 (4) (a) ~~Commissioned~~ A commissioned officer of the armed forces of the
13 United States or a component thereof.

14 (b) ~~Member~~ A member in good standing of the bar of the highest court of another
15 state.

NOTE: Inserts "a" for proper sentence agreement with s. 322.027 (4) (intro.). ✓

16 **SECTION 15.** 322.030 (1) (a) and (b) of the statutes, as created by 2007 Wisconsin
17 Act 200, are amended to read:

18 322.030 (1) (a) ~~The~~ That the signer has personal knowledge of, or has
19 investigated, the matters set forth in the charges and specifications.

20 (b) ~~The~~ That the facts are true to the best of the signer's knowledge and belief.

NOTE: Inserts "that" for proper sentence agreement with s. 322.030 (1) (intro.).

1 **SECTION 16.** 322.032 (4) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 322.032 (4) If evidence adduced in an investigation under this section indicates
4 that the accused committed an uncharged offense, the investigating officer may
5 investigate the subject matter of that offense without the accused having first been
6 charged with the offense if ~~the accused is afforded~~ all of the following apply:

7 (a) ~~Present~~ The accused is present at the investigation;

8 (b) ~~Informed~~ The accused is informed of the nature of each uncharged offense
9 investigated; ~~and~~.

10 (c) ~~Afforded~~ The accused is afforded the opportunities for representation,
11 cross-examination, and presentation prescribed in sub. (2).

NOTE: ^{s. 322.032(4)} Reorganizes text for proper sentence agreement between s. 322.032 (4)
(intro.) and (a), (b), and (c).

12 **SECTION 17.** 322.034 (2) (a) and (b) of the statutes, as created by 2007 Wisconsin
13 Act 200, are amended to read:

14 322.034 (2) (a) ~~Expressing~~ Expresses conclusions with respect to each matter
15 set forth in sub. (1).

16 (b) ~~Recommending~~ Recommends action that the convening authority take
17 regarding the specification.

NOTE: Inserts the correct word form for proper sentence agreement with s. 322.034
(2) (intro.).

18 **SECTION 18.** 322.035 of the statutes, as created by 2007 Wisconsin Act 200, is
19 amended to read:

20 **322.035 Article 35—Service of charges.** The trial counsel shall serve or
21 ~~caused~~ cause to be served upon the accused a copy of the charges. No person may,
22 against the person’s objection, be brought to trial before a general court-martial case

strike



3

1 within a period of 5 days after the service of charges upon the accused, or in a special
2 court-martial, within a period of 3 days after the service of charges upon the accused.

NOTE: Inserts the correct word form for proper sentence agreement.

and makes comma to correct grammar

3 SECTION 19. 322.037 (1) (intro.) of the statutes, as created by 2007 Wisconsin
4 Act 200, is amended to read:

5 322.037 (1) (intro.) No authority convening a general, special, or summary
6 court-martial, nor any other commanding officer, or officer serving on the
7 commanding officer's staff, may censure, reprimand, or admonish the court or any
8 member, the military judge, or counsel, with respect to the findings or sentence
9 adjudged by the court or with respect to any other exercise of its or their functions
10 in the conduct of the proceedings. No person subject to this code may attempt to
11 coerce or, by any unauthorized means, influence the action of a court-martial or court
12 of inquiry or any member, in reaching the findings or sentence in any case, or the
13 action of any convening, approving, or reviewing authority with respect to their
14 judicial acts. ~~The foregoing provisions of the~~ This subsection shall does not apply
15 with respect to the any of the following:

NOTE: Corrects form of cross-reference. Replaces "shall" consistent with current style.

16 SECTION 20. 322.038 (2) (d) of the statutes, as created by 2007 Wisconsin Act
17 200, is amended to read:

(B)

18 322.038 (2) (d) If the accused is represented by civilian counsel, military
19 counsel detailed or selected under par. (c) shall act as associate counsel unless
20 excused by the military judge at the request of the accused.

NOTE: Inserts missing article.

21 SECTION 21. 322.038 (2) (f) 2. of the statutes, as created by 2007 Wisconsin Act
22 200, is amended to read:

1 322.038 (2) (f) 2. If the accused is represented by military counsel of the
 2 accused's own selection under par. (c) 2., may approve a request from the accused that
 3 military counsel detailed under par. (c) 1. act as associate defense counsel.

NOTE: "May" is contained in s. 322.038 (2) (f) (intro.) and its repetition in the
 subsequent paragraphs is grammatically incorrect. ⁵
 subdivision

4 SECTION 22. 322.040 of the statutes, as created by 2007 Wisconsin Act 200, is
 5 amended to read: (B) replace with em dash

6 322.040 Article 40 ~~Continuances.~~ The military judge of a court-martial or
 7 a summary court-martial may, for reasonable cause, grant a continuance to any
 8 party for such time, and as often, as may appear to be just.
 no space before or after the emdash

NOTE: Drafting records show that "such" was inadvertently deleted during the
 drafting process. ⁵
 The Legislat. Council comm.tee file ✓

9 SECTION 23. 322.043 (4) of the statutes, as created by 2007 Wisconsin Act 200,
 10 is amended to read:

11 322.043 (4) When the United States is at war based on a congressional
 12 declaration or by presidential declaration under the Global War on Terror, the
 13 running of any statute of limitations is suspended until 2 years after the termination
 14 of hostilities, as proclaimed by the president or by a joint resolution of congress, and
 15 the suspension is applicable to any offense under this code under any of the following

16 circumstances ~~offenses under this code:~~ plain PLAIN

17 (a) Involving ~~An offense involving~~ fraud or attempted fraud against the United
 18 States, any state, or any agency of either in any manner, whether by conspiracy or
 19 not. ^{The involves}

20 (b) Committed ~~An offense committed~~ in connection with the acquisition, care,
 21 handling, custody, control, or disposition of any real or personal property of the
 22 United States or any state. ^{The is}

PLAIN

1 (c) Committed An offense committed in connection with the negotiation,
 2 procurement, award, performance, payment, interim financing, cancellation, or
 3 other termination or settlement, of any contract, subcontract, or purchase order
 4 which is connected with or related to the prosecution of the war, or with any
 5 disposition of termination inventory by any war contractor or government agency

*Consistent with the underlying draft contained in the Legislative Council committee file,
 = NOTE: Inserts "the suspension" in s. 322.043 (4) (intro.) to supply a missing subject
 in the last clause of the (intro.). Reorganizes text of the (intro.) for proper sentence
 agreement with the subsequent paragraphs and eliminates "circumstances" because
 parts (a) to (c) relate to offenses, not circumstances of offenses. Inserts "an offense" for
 proper sentence agreement with s. 322.043 (4) (intro.).* Amends s. 322.043
 (a) to (c)

6 **SECTION 24.** 322.047 (1) of the statutes, as created by 2007 Wisconsin Act 200,
 7 is amended to read:

8 322.047 (1) Any person not subject to this code may be punished by the
 9 military court in the same manner as a court of the state, if all of the following apply
 10 to that person:

11 (a) ~~Has~~ The person has been duly subpoenaed to appear as a witness or to
 12 produce books and records before a court-martial or court of inquiry, or before any
 13 military or civil officer designated to take a deposition to be read in evidence before
 14 a court.

15 (b) ~~Has~~ The person has been duly paid or tendered the fees and mileage of a
 16 witness at the rates allowed to witnesses attending a court of the state.

17 (c) ~~Willfully~~ The person willfully neglects or refuses to appear, or refuses to
 18 qualify as a witness or to testify or to produce any evidence which that person may
 19 have been legally subpoenaed to produce.

s. 322.047 (1)
 NOTE: Reorganizes text for proper sentence agreement between s. 322.047 (1)
 (intro.) and (a), (b), and (c).

20 **SECTION 25.** 322.049 (3) (a) of the statutes, as created by 2007 Wisconsin Act
 21 200, is amended to read:

1 322.049 (3) (a) The witness resides or is beyond the State state in which the
2 court is ordered to sit, or beyond one hundred miles from the place of trial or hearing;

NOTE: Makes capitalization and punctuation consistent with current style.

3 SECTION 26. 322.049 (3) (b) of the statutes, as created by 2007 Wisconsin Act
4 200, is amended to read:

5 322.049 (3) (b) The witness by reason of death, age, sickness, bodily infirmity,
6 imprisonment, military necessity, ~~non-amenability~~ nonamenability to process, or
7 other reasonable cause, is unable or refuses to appear and testify in person at the
8 place of trial or hearing.

NOTE: Corrects spelling.

Corrects form
= of citation,
consistent
with current
style.

9 SECTION 27. 322.049 (3) (c) of the statutes, as created by 2007 Wisconsin Act
10 200, is amended to read:

11 322.049 (3) (c) The present whereabouts of the witness is ~~are~~ unknown.

NOTE: Replaces "is" with "are" to correct grammar.

12 SECTION 28. 322.0505 (4) (intro.) of the statutes, as created by 2007 Wisconsin
13 Act 200, is amended to read:

14 322.0505 (4) (intro.) ~~Sub.~~ Subsection (3) does not apply to a court-martial composed of a
15 military judge only. In the case of a court-martial composed of a military judge only
16 or a summary court-martial officer, whenever mental disease or defect of the accused
17 with respect to an offense is properly at issue, the military judge or summary
18 court-martial officer shall find the accused of any one of the following:

NOTE: Deletes incorrect word and inserts correct word consistent with s. 322.0505
(3) (intro.), as created by 2007 Wis. Act 200. Insert proper word form consistent with current style.

19 SECTION 29. 322.051 (3) (a), (b), (c) and (d) of the statutes, as created by 2007
20 Wisconsin Act 200, are amended to read:

1 322.051 (3) (a) ~~The~~ That the accused shall be presumed to be innocent until his
2 or her guilt is established by legal and competent evidence beyond reasonable doubt.

3 (b) ~~The~~ That, in the case being considered, if there is a reasonable doubt as to
4 the guilt of the accused, the doubt must be resolved in favor of the accused and the
5 accused must be acquitted.

6 (c) ~~If~~ That, if there is a reasonable doubt as to the degree of guilt, the finding
7 shall be in a lower degree as to which there is no reasonable doubt.

8 (d) ~~The~~ That the burden of proof to establish the guilt of the accused beyond
9 reasonable doubt is upon the state.

NOTE: Inserts "that" for proper sentence agreement with s. 322.051 (3) (c) (intro.).
~~Inserts missing "in" in s. 322.051 (3) (b) consistent with the~~ ^{Consistent with the}
~~the underlying draft contained in the legislative Council committee file, it is inserted in s. 322.051 (3) (1)~~
10 SECTION 30. 322.0575 (2) (b) 1. of the statutes, as created by 2007 Wisconsin

11 Act 200, is amended to read:

12 322.0575 (2) (b) 1. While in the custody of a state, the United States, or a foreign
13 country, is temporarily returned by that state, the United States, or a foreign country
14 to the state military forces for trial by court-martial.

NOTE: Inserts a comma for consistent sentence structure with s. 322.0575 (2) (b)
2.

15 SECTION 31. 322.064 (1) (a) 1., 2. and 3. of the statutes, as created by 2007
16 Wisconsin Act 200, are amended to read:

17 322.064 (1) (a) 1. ~~The~~ Whether the court had jurisdiction over the accused and
18 the offense.

19 2. ~~The~~ Whether the charge and specification stated an offense.

20 3. ~~The~~ Whether the sentence was within the limits prescribed as a matter of
21 law.

NOTE: Inserts "whether" for proper sentence agreement with s. 322.064 (1) (a)
(intro.).

1 **SECTION 32.** 322.0675 of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 **322.0675 Article 67a—Review by state appellate authority.** Decisions of
4 a court-martial are from a court with jurisdiction to issue felony convictions, and
5 appeals are to the Wisconsin court of appeals, District IV and, if necessary, to the
6 Wisconsin Supreme Court. The appellate procedures to be followed shall be those
7 provided under ch. 809.

NOTE: Inserts comma to correct grammar.

8 **SECTION 33.** 322.070 (1) and (5) of the statutes, as created by 2007 Wisconsin
9 Act 200, are amended to read:

10 322.070 (1) The senior force judge advocate shall detail a judge advocate as
11 appellate ~~Government~~ government counsel to represent the state in the review or
12 appeal of cases specified in s. 322.0675 and before any federal court when requested
13 to do so by the state attorney general. Appellate government counsel shall be an
14 attorney licensed to practice in this state or a member in good standing of the bar of
15 the highest court of the state to which the appeal is taken.

16 (5) An accused may be represented by civilian appellate counsel at no expense
17 to the ~~State~~ state.

NOTE: Makes capitalization consistent with current style.

18 **SECTION 34.** 322.075 (2) of the statutes, as created by 2007 Wisconsin Act 200,
19 is amended to read:

20 322.075 (2) If a previously executed sentence of dishonorable or bad-conduct
21 discharge is not imposed on a new trial, the governor may substitute ~~therefore~~
22 therefor a form of discharge authorized for administrative issuance unless the
23 accused is to serve out the remainder of the accused's enlistment.

NOTE: Corrects spelling.

1 **SECTION 35.** 322.083 (1) and (2) of the statutes, as created by 2007 Wisconsin
2 Act 200, are amended to read:

3 322.083 (1) Procures his or her own enlistment or appointment in the state
4 military forces by ~~knowingly~~ knowing false representation or deliberate concealment
5 as to his or her qualifications for that enlistment or appointment and receives pay
6 or allowances ~~there under~~ thereunder.

7 (2) Procures his or her own separation from the state military forces by
8 ~~knowingly~~ knowing false representation or deliberate concealment as to his or her
9 eligibility for that separation.

NOTE: Corrects grammar and makes spelling consistent with the remainder of the statutes.

10 ^{are}
SECTION 36. 322.085 (1) (a) and (2) of the statutes, as created by 2007 Wisconsin
11 Act 200, ~~is~~ amended to read:

12 322.085 (1) (a) Without authority goes or remains absent from his or her unit,
13 organization, or place of duty with intent to remain away ~~there from~~ therefrom
14 permanently.

15 (2) Any commissioned officer of the state military forces who, after tender of
16 his or her resignation and before notice of its acceptance, quits his or her post or
17 proper duties without leave and with intent to remain away ~~there from~~ therefrom
18 permanently is guilty of desertion.

NOTE: Makes spelling consistent with the remainder of the statutes.

19 **SECTION 37.** 322.094 (1) (intro.) and (a) of the statutes, as created by 2007
20 Wisconsin Act 200, are consolidated, renumbered 322.094 (1) (a) and amended to
21 read:

Consistent with the underlying draft contained in the Legislative Council committee file ↗

1 322.094 (1) (a) Any person who does any of the following shall be punished as
2 a court-martial may direct: (a) ~~With~~ ^{with} intent to usurp or override lawful military
3 authority, refuses, in concert with any other person, to obey orders or otherwise do
4 his or her duty or creates any violence or disturbance is guilty of mutiny.

~~Consistent with the underlying draft contained in the Legislative Council committee file~~

NOTE: Eliminates a grammatical conflict between s. 322.094 (1) (intro.) and (a) by combining the 2 provisions. The language relating to "shall be punished as a court-martial ~~shall~~ direct" is repeated in s. 322.094 (2) and does not require recreation. See the next section of this bill.

may

s. 322.094 (1)

5 SECTION 38. 322.094 (1) (b) and (c) of the statutes, as created by 2007 Wisconsin
6 Act 200, are amended to read:

(except 322.098 (title))

7 322.094 (1) (b) ~~With~~ ^{Any person who} ~~with~~ intent to cause the overthrow or
8 destruction of lawful civil authority, creates, in concert with any other person, revolt,
9 violence, or other disturbance against that authority is guilty of sedition.

10 (c) ~~Fails~~ ^{Any person who fails} to do his or her utmost to prevent and suppress
11 a mutiny or sedition being committed in his or her presence, or fails to take all
12 reasonable means to inform his or her superior commissioned officer or commanding
13 officer of a mutiny or sedition which he or she knows or has reason to believe is taking
14 place, is guilty of a failure to suppress or report a mutiny or sedition.

s. 322.094 (1)

Consistent with the underlying draft in the Legislative Council committee file

NOTE: Eliminates a grammatical conflict between s. 322.094 (1) (intro.) and (b) See the previous section of this bill.

and (c)

15 SECTION 39. 322.098 (intro.) and (1) of the statutes, as created by 2007
16 Wisconsin Act 200, are consolidated, renumbered 322.098 (1) and amended to read:

17 322.098 (1) Any person who does any of the following shall be punished as a
18 court-martial may direct: (1) ~~Is~~ ^{is} responsible for unnecessary delay in the
19 disposition of any case of a person accused of an offense under this code shall be
20 punished as a court-martial may direct.

NOTE: Eliminates a grammatical conflict between s. 322.098 (intro.) and (1) by combining the 2 provisions. See the next section of this bill.

Consistent with the underlying draft contained in the Legislative Council committee file

s. 322.098

is
are

1 SECTION 40. 322.098 (2) of the statutes, as created by 2007 Wisconsin Act 200,
2 amended to read:

3 322.098 (2) ~~Knowingly~~ Any person who knowingly and intentionally fails to
4 enforce or comply with any provision of this code regulating the proceedings before,
5 during, or after trial of an accused shall be punished as a court-martial may direct.

S. 322.098

NOTE: The previous section of this bill eliminates a grammatical conflict between s. 322.098 (intro.) and (1) by combining the 2 provisions, requiring that the penalty provision of s. 322.098 (intro.) also be added to this provision. See the previous section of this bill.

6 SECTION 41. 322.109 of the statutes, as created by 2007 Wisconsin Act 200, is
7 amended to read:

8 **322.109 Article 109—Property other than military property — Waste,**
9 **spoilage, or destruction.** Any person who willfully or recklessly wastes, spoils, or
10 otherwise willfully and wrongfully destroys or damages any property other than
11 military property of the United States, the State state, or of any state, shall be
12 punished as a court-martial may direct.

NOTE: Makes capitalization consistent with current style.

13 SECTION 42. 322.1125 (1) of the statutes, as created by 2007 Wisconsin Act 200,
14 is renumbered 322.1125.

NOTE: Eliminates unnecessary subsection designation. Section 322.1125 does not have multiple subsections.

Consistent with the underlying draft in the legislative Council Committee file

15 SECTION 43. 322.114 of the statutes, as created by 2007 Wisconsin Act 200, is
16 amended to read:

17 **322.114 Article 114—Dueling.** Any person who fights or promotes, or is
18 concerned in or connives at fighting a duel, or who, having knowledge of a challenge
19 sent or about to be sent, fails to report the fact promptly to the proper authority shall
20 be punished as a court-martial may direct.

inadvertently

NOTE: Drafting records show text was dropped in the drafting process.

The legislative Council Committee file shows that

Inserts necessary comma

shall
^
S

(except 322.121 (title))

1 SECTION 44. 322.121 (intro.) and (1) of the statutes, as created by 2007
2 Wisconsin Act 200, are consolidated, renumbered 322.121 (1) and amended to read:

3 322.121 (1) Any person who wrongfully takes, obtains, or withholds, by any
4 means, from the possession of the owner or of any other person any money, personal
5 property, or section article of value of any kind if any of the following apply shall be
6 punished as a court-martial may direct: (1) ^{add two spaces} With with intent permanently to
7 deprive or defraud another person of the use and benefit of property or to appropriate
8 it to his or her own use or the use of any person other than the owner, steals that
9 property and, is guilty of larceny, and shall be punished as a court-martial may
10 direct.

Consistent with the underlying draft contained in the Legislative Council Committee file,
NOTE: Eliminates a grammatical conflict between s. 322.121 (intro.) and (1) by merging the content of the (intro.) into sub. (1). See the next section of this bill. Drafting records show "article" was inadvertently replaced by "section" during the drafting process. The Legislative Council Committee file shows that

s. 322.121

11 SECTION 45. 322.121 (2) of the statutes, as created by 2007 Wisconsin Act 200,
12 is amended to read:

13 322.121 (2) With Any person who wrongfully takes, obtains, or withholds, by
14 any means, from the possession of the owner or of any other person any money,
15 personal property, or article of value of any kind with intent temporarily to deprive
16 or defraud another person of the use and benefit of property or to appropriate it to
17 his or her own use or the use of any person other than the owner, is guilty of wrongful
18 appropriation and shall be punished as a court-martial may direct.

NOTE: Eliminates a grammatical conflict between s. 322.121 (intro.) and (2) by merging the content of the (intro.) into sub. (2). See the previous section of this bill. Consistent with the underlying draft contained in the Legislative Council Committee file,

s. 322.121

19 SECTION 46. 322.123 (intro.) and (2) of the statutes, as created by 2007
20 Wisconsin Act 200, are amended to read:

By the Legislature
of the State of Wisconsin

replace w/
em dash

↑

no space before or after the em dash

Consistent with the underlying draft contained in the Legislative Council comm. tree files

NOTE: Moves text from s. 322.123 (2) to s. 322.123 (intro.) to correct sentence structure so that the moved language applies to both s. 322.123 (1) and (2). Deletes unnecessary "who" and adds necessary comma. (except 322.1235 (+title))

1 **322.123 Article 123- Forgery.** (intro.) Any person who, with intent to
2 defraud ~~who~~ does any of the following is guilty of forgery and shall be punished as
3 a court-martial may direct:

4 **(2)** Utters, offers, issues, or transfers a writing, known by him or her to be so
5 made or altered; ~~is guilty of forgery.~~

x 6 **SECTION 47.** 322.1235 (intro.), (1) and (2) of the statutes, as created by 2007
7 Wisconsin Act 200, are renumbered 322.1235 (1) (intro.), (a) and (b) and amended to
8 read:

9 322.1235 **(1)** (intro.) Any person who does makes, draws, utters, or delivers any
10 check, draft, or order for the payment of money upon any bank or other depository,
11 knowing at the time that the maker or drawer has not or will not have sufficient
12 funds in, or credit with, the bank or other depository for the payment of that check,
13 draft, or order in full upon its presentment for any of the following purposes shall be
14 punished as a court-martial may direct:

15 (a) Procures For the procurement of any section article or thing of value, with
16 intent to defraud.

delete extra space

17 (b) Pays For the payment of any past due obligation, or for any other purpose,
18 with intent to deceive; ~~makes, draws, utters, or delivers any check, draft, or order~~
19 ~~for the payment of money upon any bank or other depository, knowing at the time~~
20 ~~that the maker or drawer has not or will not have sufficient funds in, or credit with,~~
21 ~~the bank or other depository for the payment of that check, draft, or order in full upon~~
22 ~~its presentment.~~

ⓑ
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The Legislative Council
committee file

1 (2) The making, drawing, uttering, or delivering by a maker or drawer of a
2 check, draft, or order, payment of which is refused by the drawee because of
3 insufficient funds of the maker or drawer in the drawee's possession or control, is
4 prima facie evidence of his or her intent to defraud or deceive and of his or her
5 knowledge of insufficient funds in, or credit with, that bank or other depository,
6 unless the maker or drawer pays the holder the amount due within 5 days after
7 receiving notice, orally or in writing, that the check, draft, or order was not paid on
8 presentment.

NOTE: Drafting records show that the language that is stricken in s. 322.1235 (1) (b), as renumbered, and moved to s. 322.1235 (1) (intro.) was improperly placed within the provision, as that language is applicable to the offenses enumerated in both s. 322.1235 (1) (a) and (b). Drafting records also show that "article" was inadvertently replaced by "section" during the drafting process. The language renumbered as s. 322.1235 (2) is moved into a separate subsection, as it is not a part of the offense enumerated in s. 322.1235 (1) (b), as renumbered.

as renumbered

as renumbered

(except 322.126(title))

9 SECTION 48. 322.126 (intro.) and (1) of the statutes, as created by 2007
10 Wisconsin Act 200, are consolidated, renumbered 322.126 (1) and amended to read:

11 322.126 (1) Any person who does any of the following shall be punished as a
12 court-martial may direct: (1) Willfully willfully and maliciously burns or sets on fire
13 an inhabited dwelling, or any other structure, movable or immovable, in which the
14 offender knows there is at the time a human being, is guilty of aggravated arson and
15 shall be punished as a court-martial may direct.

NOTE: Eliminates a grammatical conflict between s. 322.126 (intro.) and (1) by merging the content of the (intro.) into sub. (1). See the next section of this bill. Consistent with the underlying draft contained in the Legislative Council committee file, s. 322.126

16 SECTION 49. 322.126 (2) of the statutes, as created by 2007 Wisconsin Act 200,
17 is amended to read:

18 322.126 (2) Willfully Any person who willfully and maliciously burns or sets
19 fire to the property of another, except as provided in sub. (1), is guilty of simple arson
20 and shall be punished as a court-martial may direct.

Consistent with the underlying draft contained in the Legislative Council committee ~~file~~ file, (except 322.128 (title))

NOTE: Eliminates a grammatical conflict between s. 322.126 (intro.) and (2) by merging the content of the (intro.) into sub. (2).

See the previous section of this bill.

s. 322.126

1 SECTION 50. 322.128 (intro.) and (1) of the statutes, as created by 2007
2 Wisconsin Act 200, are consolidated, renumbered 322.128 (1) and amended to read:

3 322.128 (1) Any person who does any of the following shall be punished as a
4 court-martial may direct: (1) Attempts attempts or offers with unlawful force or
5 violence to do bodily harm to another person, whether or not the attempt or offer is
6 consummated, is guilty of assault and shall be punished as a court-martial may

ΔΔ

7 direct. NOTE: Eliminates a grammatical conflict between s. 322.126 (intro.) and (1) by
merging the content of the (intro.) into sub. (1). See the next section of this bill.

Consistent with the underlying draft contained in the Legislative Council committee file,

128

s. 322.128

8 SECTION 51. 322.128 (2) and (3) of the statutes, as created by 2007 Wisconsin
9 Act 200, are amended to read:

10 322.128 (2) Commits Any person who commits an assault with a dangerous
11 weapon or other means or force likely to produce death or grievous bodily harm is
12 guilty of aggravated assault and shall be punished as a court-martial may direct.

13 (3) Commits Any person who commits an assault and intentionally inflicts
14 grievous bodily harm with or without a weapon is guilty of aggravated assault and
15 shall be punished as a court-martial may direct.

See the previous section of this bill

s. 322.128

NOTE: Eliminates a grammatical conflict between s. 322.128 (intro.) and (2) and (3) by merging into the content of the (intro.) into subs. (2) and (3).

Consistent with the underlying draft contained in the Legislative Council committee file,

16 SECTION 52. 322.132 (1) (intro.) and (2) (intro.) of the statutes, as created by
17 2007 Wisconsin Act 200, are amended to read:

18 322.132 (1) (intro.) For the purpose of obtaining the approval, allowance, or
19 payment of any claim against the United States, the state, or of any state, or any
20 officer:

1 (2) (intro.) For the purpose of defrauding the United States, the state, or of any
2 state, or any officer:

NOTE: Deletes unnecessary language.

3 SECTION 53. 322.135⁽¹⁾ of the statutes, as created by 2007 Wisconsin Act 200, is
4 amended to read:

5 PLAIN

5 **322.135 Article 135—Courts of inquiry.** (1) Courts of inquiry to investigate
6 any matter of concern to the state military forces may be convened by any person
7 authorized to convene a general court-martial, whether or not the persons involved
8 has have requested an inquiry.

NOTE: Inserts "have" to correct grammar.

9 SECTION 54. 322.137 of the statutes, as created by 2007 Wisconsin Act 200, is
10 amended to read:

11 **322.137 Article 137—Articles to be available.** The This code and the
12 manual for courts-martial shall be made available to a member of the state military
13 forces, upon request by the member, for the member's personal examination.

NOTE: Inserts "this" for consistency with the definition in s. 322.001 (24m), as
renumbered by this bill.

14 SECTION 55. 322.143 of the statutes, as created by 2007 Wisconsin Act 200, is
15 amended to read:

16 **322.143 Article 143—Uniformity of interpretation.** This code shall be so
17 construed as to effectuate its general purpose to make it uniform, so far as practical,
18 with the 10 USC ch. 47.

NOTE: Deletes unnecessary word.

19 SECTION 56. 2007 Wisconsin Act 200, section 2^{er} is amended by replacing
20 "Wisconsin national guard or state defense force;" with "Wisconsin national guard
21 or state defense force;".

Note: Text was inserted without being shown as underscored. The change was intended.

1 **SECTION 57.** 2007 Wisconsin Act 200, section 122^g is amended by replacing
2 “~~accoutrements moneys, or stores that~~” with “accoutrements, moneys, or stores,
3 that”.

Note: Two commas were deleted without showing them as stricken. The change was intended.

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SECTION 1. 322.005 (title) and (1) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

322.005 (title) Article 5—Territorial applicability of the this code. (1)

This code has applicability in all places, provided that either the person subject to the this code is in a duty status or, if not in a duty status, that there is a nexus between the act or omission constituting the offense and the efficient functioning of the state military forces; however, this grant of military jurisdiction shall neither preclude nor limit civilian jurisdiction over an offense.

NOTE: Inserts "this" for consistency with the definition in s. 322.001 (24m), as renumbered by this bill.