

# State of Wisconsin



2009 Assembly Bill 572

Date of enactment: **March 15, 2010**

Date of publication\*: **March 29, 2010**

## 2009 WISCONSIN ACT 179

AN ACT *to renumber* 322.1125 (1); *to renumber and amend* 322.001 (4); *to consolidate, renumber and amend* 322.094 (1) (intro.) and (a), 322.098 (intro.) (except 322.098 (title)) and (1), 322.121 (intro.) (except 322.121 (title)) and (1), 322.1235 (intro.) (except 322.1235 (title)), (1) and (2), 322.126 (intro.) (except 322.126 (title)) and (1) and 322.128 (intro.) (except 322.128 (title)) and (1); *to amend* 20.455 (1) (b), 321.40 (5) (c), 322.001 (8), 322.001 (25), 322.002 (2), 322.005 (title) and (1), 322.006 (1), 322.007 (1), 322.009 (3), 322.015 (3) (intro.), 322.026 (2) (c), 322.026 (3), 322.027 (3) (a), 322.027 (4) (intro.), 322.027 (4) (a) and (b), 322.030 (1) (a) and (b), 322.032 (4), 322.034 (2) (a) and (b), 322.035, 322.037 (1) (intro.), 322.038 (2) (d), 322.038 (2) (f) 2., 322.040, 322.043 (4), 322.047 (1), 322.049 (3) (a), 322.049 (3) (b), 322.049 (3) (c), 322.0505 (4) (intro.), 322.051 (3) (a), (b), (c) and (d), 322.0575 (2) (b) 1., 322.064 (1) (a) 1., 2. and 3., 322.0675, 322.070 (1) and (5), 322.075 (2), 322.083 (1) and (2), 322.085 (1) (a) and (2), 322.094 (1) (b) and (c), 322.098 (2), 322.109, 322.114, 322.121 (2), 322.123 (intro.) and (2), 322.126 (2), 322.128 (2) and (3), 322.132 (1) (intro.) and (2) (intro.), 322.135 (1), 322.137 and 322.143 of the statutes; and *to affect* 2007 Wisconsin Act 200, section 2 and 2007 Wisconsin Act 200, section 122; **relating to:** repealing, consolidating, renumbering, amending, and revising various provisions of the statutes for the purpose of correcting errors, supplying omissions, correcting and clarifying references, eliminating defects, anachronisms, conflicts, ambiguities, and obsolete provisions, reconciling conflicts, and repelling unintended repeals (Correction Bill).

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

**SECTION 1.** 20.455 (1) (b) of the statutes, as affected by 2007 Wisconsin Acts 1 and 200, is amended to read:

20.455 (1) (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.

NOTE: Corrects punctuation.

**SECTION 2.** 321.40 (5) (c) of the statutes, as affected by 2007 Wisconsin Act 200, is amended to read:

321.40 (5) (c) No guard member may receive a tuition grant under sub. (4) (3) for any semester in which he or she received a payment under s. 45.20 (2).

NOTE: Corrects cross-reference. Tuition grants are provided for under s. 321.40 (3), not (4).

**SECTION 3.** 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.

NOTE: “This” is added for clarity. Except in 2 places, “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 991.11, WISCONSIN STATUTES 2007–08 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 4.** 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 5.** 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.

**SECTION 6.** 322.002 (2) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Deletes unnecessary phrase consistent with current style.

**SECTION 7.** 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.

**SECTION 8.** 322.006 (1) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Replaces plural with singular for proper sentence agreement.

**SECTION 9.** 322.007 (1) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

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

**SECTION 10.** 322.009 (3) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

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

**SECTION 11.** 322.015 (3) (intro.) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

322.015 (3) (intro.) Any commanding officer of the grade of major or lieutenant commander, or above, may impose any of the following upon enlisted members of the officer’s command:

NOTE: Inserts comma to correct grammar. The change is printed in the 2007–08 statutes.

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

322.026 (2) (c) ~~Certified~~ Be certified as qualified for duty as a military judge 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. 322.026 (3).

**SECTION 13.** 322.026 (3) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: The Legislative Council committee file shows that “a certificate” was inadvertently deleted during the drafting process.

**SECTION 14.** 322.027 (3) (a) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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).

**SECTION 15.** 322.027 (4) (intro.) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

322.027 (4) (intro.) In the instance when a defense counsel is not an attorney licensed to practice in this state, the defense counsel shall be deemed admitted on motion, subject to filing a certificate with the military judge set-

ting forth the qualifications that counsel is all of the following:

NOTE: The Legislative Council committee file shows that "a certificate" was inadvertently deleted during the drafting process.

**SECTION 16.** 322.027 (4) (a) and (b) of the statutes, as created by [2007 Wisconsin Act 200](#), are amended to read:

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

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

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

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

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

(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.).

**SECTION 18.** 322.032 (4) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

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

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

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

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

**SECTION 19.** 322.034 (2) (a) and (b) of the statutes, as created by [2007 Wisconsin Act 200](#), are amended to read:

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

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

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

**SECTION 20.** 322.035 of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

court-martial case within a period of 5 days after the service of charges upon the accused; or, in a special 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 moves comma to correct grammar.

**SECTION 21.** 322.037 (1) (intro.) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

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

**SECTION 22.** 322.038 (2) (d) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

NOTE: Inserts missing article.

**SECTION 23.** 322.038 (2) (f) 2. of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

322.038 (2) (f) 2. If the accused is represented by military counsel of the accused's own selection under par. (c) 2., ~~may~~ approve a request from the accused that 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 subdivision is grammatically incorrect.

**SECTION 24.** 322.040 of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

**322.040 Article 40—Continuances.** The military judge of a court-martial or a summary court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

NOTE: The Legislative Council committee file shows that "such" was inadvertently deleted during the drafting process.

**SECTION 25.** 322.043 (4) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

322.043 (4) When the United States is at war based on a congressional declaration or by presidential declaration under the Global War on Terror, the running of any

statute of limitations is suspended until 2 years after the termination of hostilities, as proclaimed by the president or by a joint resolution of congress, and the suspension is applicable to any offense under this code under any of the following circumstances:

(a) Involving The offense involves fraud or attempted fraud against the United States, any state, or any agency of either in any manner, whether by conspiracy or not.

(b) Committed The offense is committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States or any state.

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, inserts "the suspension" in s. 322.043 (4) (intro.) to supply a missing subject in the last clause of the (intro.). Amends s. 322.043 (4) (a) to (c) for proper sentence agreement with s. 322.043 (4) (intro.).

**SECTION 26.** 322.047 (1) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

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

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

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

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

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

322.049 (3) (a) The witness resides or is beyond the State state in which the 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.

**SECTION 28.** 322.049 (3) (b) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

322.049 (3) (b) The witness by reason of death, age, sickness, bodily infirmity, imprisonment, military neces-

sity, ~~non amenability~~ nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing.

NOTE: Corrects spelling.

**SECTION 29.** 322.049 (3) (c) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

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

**SECTION 30.** 322.0505 (4) (intro.) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Deletes incorrect word and inserts correct word consistent with s. 322.0505 (3) (intro.). Corrects form of citation, consistent with current style.

**SECTION 31.** 322.051 (3) (a), (b), (c) and (d) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

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

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

NOTE: Inserts "that" for proper sentence agreement with s. 322.051 (3) (intro.). Consistent with the underlying draft contained in the Legislative Council committee file, "in" is inserted in s. 322.051 (3) (b).

**SECTION 32.** 322.0575 (2) (b) 1. of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

322.0575 (2) (b) 1. While in the custody of a state, the United States, or a foreign country, is temporarily returned by that state, the United States, or a foreign country 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.

**SECTION 33.** 322.064 (1) (a) 1., 2. and 3. of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

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

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

**SECTION 34.** 322.0675 of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Inserts comma to correct grammar.

**SECTION 35.** 322.070 (1) and (5) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

NOTE: Makes capitalization consistent with current style.

**SECTION 36.** 322.075 (2) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Corrects spelling.

**SECTION 37.** 322.083 (1) and (2) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

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

**SECTION 38.** 322.085 (1) (a) and (2) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

322.085 (1) (a) Without authority goes or remains absent from his or her unit, organization, or place of duty

with intent to remain away ~~there from~~ therefrom permanently.

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

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

**SECTION 39.** 322.094 (1) (intro.) and (a) of the statutes, as created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.094 (1) (a) and amended to read:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.094 (1) (intro.) and s. 322.094 (1) (a) by combining the 2 provisions. The language relating to "shall be punished as a court-martial may direct" is repeated in s. 322.094 (2) and does not require recreation. See the next section of this bill.

**SECTION 40.** 322.094 (1) (b) and (c) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

NOTE: Consistent with the underlying draft in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.094 (1) (intro.) and s. 322.094 (1) (b) and (c). See the previous section of this bill.

**SECTION 41.** 322.098 (intro.) (except 322.098 (title)) and (1) of the statutes, as created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.098 (1) and amended to read:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammat-

ical conflict between s. 322.098 (intro.) and s. 322.098 (1) by combining the 2 provisions. See the next section of this bill.

**SECTION 42.** 322.098 (2) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

NOTE: The previous section of this bill eliminates a grammatical conflict between s. 322.098 (intro.) and s. 322.098 (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.

**SECTION 43.** 322.109 of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

NOTE: Makes capitalization consistent with current style.

**SECTION 44.** 322.1125 (1) of the statutes, as created by [2007 Wisconsin Act 200](#), is renumbered 322.1125.

NOTE: Consistent with the underlying draft in the Legislative Council committee file, eliminates unnecessary subsection designation. Section 322.1125 does not have multiple subsections.

**SECTION 45.** 322.114 of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

NOTE: The Legislative Council committee file shows that text was inadvertently dropped in the drafting process. Inserts necessary comma.

**SECTION 46.** 322.121 (intro.) (except 322.121 (title)) and (1) of the statutes, as created by [2007 Wisconsin Act 200](#), are consolidated, renumbered 322.121 (1) and amended to read:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.121 (intro.) and s. 322.121 (1) by

merging the content of the (intro.) into sub. (1). See the next section of this bill. The Legislative Council committee file shows that “article” was inadvertently replaced by “section” during the drafting process.

**SECTION 47.** 322.121 (2) of the statutes, as created by [2007 Wisconsin Act 200](#), is amended to read:

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

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

**SECTION 48.** 322.123 (intro.) and (2) of the statutes, as created by [2007 Wisconsin Act 200](#), are amended to read:

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

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

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

**SECTION 49.** 322.1235 (intro.) (except 322.1235 (title)), (1) and (2) of the statutes, as created by [2007 Wisconsin Act 200](#), are consolidated, renumbered 322.1235 (1) and amended to read:

322.1235 (1) Any person who ~~does any of the following shall be punished as a court-martial may direct: (1) Procures, for the procurement of any section article~~ or thing of value, with intent to defraud. ~~(2) Pays; or for the payment of~~ any past due obligation, or for any other purpose, with intent to deceive; makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment shall be punished as a court martial may direct.

(2) The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee’s possession or control, is prima facie evidence of his or her intent to defraud or deceive and of his or her knowledge of insuffi-

cient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within 5 days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment.

NOTE: The Legislative Council committee file shows that the clause in s. 322.1235 (1) (b) that begins “makes, draws” and ends “its presentment” was improperly placed within the provision, as that language is applicable to the offenses enumerated in both s. 322.1235 (1) and (2). The Legislative Council committee file also shows 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.

**SECTION 50.** 322.126 (intro.) (except 322.126 (title)) and (1) of the statutes, as created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.126 (1) and amended to read:

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

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

**SECTION 51.** 322.126 (2) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.126 (intro.) and s. 322.126 (2) by merging the content of the (intro.) into sub. (2). See the previous section of this bill.

**SECTION 52.** 322.128 (intro.) (except 322.128 (title)) and (1) of the statutes, as created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.128 (1) and amended to read:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.128 (intro.) and s. 322.128 (1) by merging the content of the (intro.) into sub. (1). See the next section of this bill.

**SECTION 53.** 322.128 (2) and (3) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.128 (intro.) and s. 322.128 (2) and (3) by merging into the content of the (intro.) into subs. (2) and (3). See the previous section of this bill.

**SECTION 54.** 322.132 (1) (intro.) and (2) (intro.) of the statutes, as created by 2007 Wisconsin Act 200, are amended to read:

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

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

NOTE: Deletes unnecessary language.

**SECTION 55.** 322.135 (1) of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Inserts “have” to correct grammar.

**SECTION 56.** 322.137 of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

**322.137 Article 137—Articles to be available.** ~~The~~ This code and the manual for courts-martial shall be made available to a member of the state military 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.

**SECTION 57.** 322.143 of the statutes, as created by 2007 Wisconsin Act 200, is amended to read:

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

NOTE: Deletes unnecessary word.

**SECTION 58.** 2007 Wisconsin Act 200, section 2 is amended by replacing “Wisconsin national guard or state defense force;” with “Wisconsin national guard or state defense force;”.

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

**SECTION 59.** 2007 Wisconsin Act 200, section 122 is amended by replacing “~~accoutrements moneys, or stores that~~” with “~~accoutrements, moneys, or stores, that~~”.

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

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