CHAPTER 322

WISCONSIN CODE OF MILITARY JUSTICE

SUBCHAPTER I
GENERAL PROVISIONS
322.0001 Criminal code interaction.
322.001 Article 1 — Definitions.
322.002 Article 2 — Persons subject to this code; jurisdiction.
322.003 Article 3 — Jurisdiction to try certain personnel.
322.005 Article 5 — Territorial applicability of this code.
322.006 Article 6 — Judge advocates.
SUBCHAPTER II
APPREHENSION AND RESTRAINT
322.007 Article 7 — Apprehension.
322.009 Article 9 — Imposition of restraint.
322.010 Article 10 — Restraint of persons charged with offenses.
322.011 Article 11 — Place of confinement; reports and receiving of prisoners.
322.012 Article 12 — Confinement with enemy prisoners prohibited.
322.013 Article 13 — Punishment prohibited before trial.
322.014 Article 14 — Delivery of offenders to civil authorities.
SUBCHAPTER III
NONJUDICIAL PUNISHMENT
322.015 Article 15 — Commanding officer's nonjudicial punishment.
SUBCHAPTER IV
COURT−MARTIAL JURISDICTION
322.016 Article 16 — Courts−martial classified.
322.017 Article 17 — Jurisdiction of courts−martial in general.
322.018 Article 18 — Jurisdiction of general courts−martial.
322.019 Article 19 — Jurisdiction of special courts−martial.
322.020 Article 20 — Jurisdiction of summary courts−martial.
SUBCHAPTER V
APPOINTMENT AND COMPOSITION
OF COURTS−MARTIAL
322.022 Article 22 — Who may convene general courts−martial.
322.023 Article 23 — Who may convene special courts−martial.
322.024 Article 24 — Who may convene summary courts−martial.
322.025 Article 25 — Who may serve as a member on courts−martial.
322.026 Article 26 — Military judge of a general or special court−martial.
322.027 Article 27 — Detail of trial counsel and defense counsel.
322.028 Article 28 — Detail or employment of reporters and interpreters.
322.029 Article 29 — Absent and additional members.
SUBCHAPTER VI
PRETRIAL PROCEDURE
322.030 Article 30 — Charges and specifications.
322.031 Article 31 — Compulsory self−incrimination prohibited.
322.032 Article 32 — Investigation.
322.033 Article 33 — Forwarding of charges.
322.034 Article 34 — Advice of judge advocate and reference for trial.
322.035 Article 35 — Service of charges.
SUBCHAPTER VII
TRIAL PROCEDURE
322.036 Article 36 — Governor may prescribe regulations.
322.037 Article 37 — Unlawfully influencing action of court.
322.038 Article 38 — Duties of trial counsel and defense counsel.
322.039 Article 39 — Sessions.
322.040 Article 40 — Continuances.
322.041 Article 41 — Challenges.
322.042 Article 42 — Oaths or affirmations.
322.043 Article 43 — Statute of limitations.
322.044 Article 44 — Former jeopardy.
322.045 Article 45 — Pleas of the accused.
322.046 Article 46 — Opportunity to obtain witnesses and other evidence.
322.047 Article 47 — Refusal to appear or testify.
322.048 Article 48 — Contempt.
322.049 Article 49 — Depositions.
322.050 Article 50 — Admissibility of records of courts of inquiry.
322.0505 Article 50a — Defense of mental disease or defect.
322.051 Article 51 — Voting and rulings.
322.052 Article 52 — Number of votes required.
322.053 Article 53 — Court to announce action.
322.054 Article 54 — Record of trial.
SUBCHAPTER VIII
SENTENCES
322.055 Article 55 — Cruel and unusual punishments prohibited.
322.056 Article 56 — Maximum limits.
322.057 Article 57 — Effective date of sentences.
322.0575 Article 57a — Deferment of sentences.
322.058 Article 58 — Conditions of confinement.
322.0585 Article 58a — Sentences: reduction in enlisted grade upon approval.
322.0587 Article 58b — Sentences: forfeiture of pay and allowances during confinement.
SUBCHAPTER IX
POST−TRIAL PROCEDURE AND
REVIEW OF COURTS−MARTIAL
322.059 Article 59 — Error of law; lesser included offense.
322.060 Article 60 — Action by the convening authority.
322.061 Article 61 — Withdrawal of appeal.
322.062 Article 62 — Appeal by the state.
322.063 Article 63 — Rehearings.
322.064 Article 64 — Review by the senior force judge advocate.
322.065 Article 65 — Disposition of records after review by the convening authority.
322.0675 Article 67a — Review by state appellate authority.
322.070 Article 70 — Appellate counsel.
322.071 Article 71 — Execution of sentence; suspension of sentence.
322.072 Article 72 — Vacation of suspension.
322.073 Article 73 — Petition for a new trial.
322.074 Article 74 — Remission and suspension.
322.075 Article 75 — Restoration.
322.076 Article 76 — Finality of proceedings, findings, and sentences.
322.0763 Article 76a — Leave required to be taken pending review of certain court−martial convictions.
322.0767 Article 76b — Competency; commitment for examination and treatment.
SUBCHAPTER X
PUNITIVE ARTICLES
322.077 Article 77 — Principals.
322.078 Article 78 — Accessory after the fact.
322.079 Article 79 — Conviction of lesser included offense.
322.080 Article 80 — Attempts.
322.081 Article 81 — Conspiracy.
322.082 Article 82 — Solicitation.
322.083 Article 83 — Fraudulent enlistment, appointment, or separation.
322.084 Article 84 — Unlawful enlistment, appointment, or separation.
322.085 Article 85 — Desertion.
322.086 Article 86 — Absence without leave.
322.087 Article 87 — Missing movement.
322.088 Article 88 — Contempt toward officials.
322.089 Article 89 — Disrespect toward superior commissioned officer.
322.090 Article 90 — Assaulting or willfully disobeying superior commissioned officer.
322.091 Article 91 — Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.
322.092 Article 92 — Failure to obey order or regulation.
322.093 Article 93 — Cruelty and maltreatment.
322.094 Article 94 — Mutiny or sedition.
322.095 Article 95 — Resistance, flight, breach of arrest, and escape.
322.096 Article 96 — Releasing prisoner without proper authority.
322.097 Article 97 — Unlawful detention.
322.098 Article 98 — Noncompliance with procedural rules.
322.099 Article 99 — Misbehavior before the enemy.
322.100 Article 100 — Subordinate compelling surrender.
322.101 Article 101 — Improper use of countersign.
322.102 Article 102 — Forcing a safeguard.
322.103 Article 103 — Captured or abandoned property.
322.104 Article 104 — Aiding the enemy.
322.105 Article 105 — Misconduct as prisoner.
322.107 Article 107 — False official statements.
322.108 Article 108 — Military property — Loss, damage, destruction, or wrongful disposition.
322.109 Article 109 — Property other than military property — Waste, spoilage, or destruction.
322.110 Article 110 — Improper hazarding of vessel.
322.111 Article 111 — Drunken or reckless operation of certain vehicles, vessels, and aircraft.
322.112 Article 112 — Drunk on duty.
322.1125 Article 112a — Violations regarding controlled substances.
322.113 Article 113 — Misbehavior of sentinel.
322.114 Article 114 — Dueling.
322.115 Article 115 — Malingering.
322.116 Article 116 — Riot or breach of peace.
322.117 Article 117 — Provoking speeches or gestures.
322.120 Article 120 — Rape and sexual assault generally.
322.1201 Article 120a — Stalking.
322.1202 Article 120b − Rape and sexual assault of a child.
322.1203 Article 120c — Other sexual misconduct.
322.121 Article 121 — Larceny and wrongful appropriation.
322.122 Article 122 — Robbery.
322.123 Article 123 — Forgery.
322.1235 Article 123a — Making, drawing, or uttering check, draft, or order without sufficient funds.
322.124 Article 124 — Maiming.
322.126 Article 126 — Arson.

322.127 Article 127 — Extortion.
322.128 Article 128 — Assault.
322.129 Article 129 — Burglary.
322.130 Article 130 — Housebreaking.
322.131 Article 131 — Perjury.
322.132 Article 132 — Frauds against the government.
322.133 Article 133 — Conduct unbecoming an officer and a gentleman.
322.134 Article 134 — General section.
SUBCHAPTER XI
MISCELLANEOUS PROVISIONS
322.135 Article 135 — Courts of inquiry.
322.136 Article 136 — Authority to administer oaths and to act as notary.
322.137 Article 137 — Articles to be available.
322.138 Article 138 — Complaints of wrongs.
322.139 Article 139 — Redress of injuries to property.
322.140 Article 140 — Delegation by the governor.
322.141 Article 141 — Payment of fees, costs, and expenses.
322.142 Article 142 — Payment of fines and disposition.
322.143 Article 143 — Uniformity of interpretation.
322.144 Article 144 — Immunity for action of military courts.

SUBCHAPTER I

GENERAL PROVISIONS

322.0001 Criminal code interaction. (1) Chapters 939, 967 to 973, and 975 to 979 do not apply to proceedings under this chapter.

(2) A crime under this code is a crime under s. 939.12. A felony under this code is a felony under s. 939.22 (12). A misdemeanor under this code is a misdemeanor under s. 939.22 (20).

History: 2007 a. 200.

322.001 Article 1 — Definitions. In this chapter, unless the context otherwise requires:

(1) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused.

(2) "Cadet," "candidate," or "midshipman" means a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in a state military force.

(3) "Classified information" means any of the following:

(a) Any information or material that has been determined by an official of the United States or any state subject to law, an executive order, or regulation to require protection against unauthorized disclosure for reasons of state security or national defense or foreign relations of the United States.

(b) Any restricted data, as defined in 42 USC 2014 (y).

(5) "Commanding officer" includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment under s. 322.015. The term 'commander' has the same meaning as 'commanding officer' unless the context otherwise requires.

(6) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command to the convening authority.

(7) "Day" means calendar day and is not synonymous with the term "unit training assembly." Any punishment authorized by this code which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean succeeding duty days.

(8) "Duty status other than state active duty" means any other type of duty including 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.

(9) "Enemy" includes organized forces of the enemy in time of war, any hostile body that U.S. or state forces may be opposing, such as a rebellious mob or band of renegades, and includes civilians as well as members of military organizations. Enemy is not restricted to the enemy government or its armed forces.

(10) "Enlisted member" means a person in an enlisted grade.

(11) "Forfeiture" means a permanent loss of entitlement to pay or allowances and any forfeiture under this code is not a forfeiture for purposes of Article X, Section 2, of the Wisconsin constitution.

(12) "Judge advocate" means a commissioned officer of the organized state military forces who is an attorney licensed to practice in this state or a member in good standing of the bar of the highest court of another state, and is any of the following:

(a) Certified or designated as a judge advocate in the Judge Advocate General's Corps of the army, air force, navy, or the marine corps or designated as a law specialist as an officer of the coast guard, or a reserve component of one of these.

(b) Certified as an non−federally recognized judge advocate, under regulations promulgated subject to this provision, by the senior judge advocate of the commander of the force in the state military force of which the accused is a member, as competent to perform military justice duties required by this code. If there is no judge advocate available, then certification may be made by the senior judge advocate of the commander of another force in the state military forces, as the convening authority directs.

(13) "Military court" means a court of inquiry under s. 322.135 or a court−martial.

(14) "Military judge" means an official of a general or special court−martial detailed under s. 322.026.

(15) "Military offenses" means those offenses prescribed under articles 77, principals; 78, accessory after the fact; 80, attempts; 81, conspiracy; 82, solicitation; 83, fraudulent enlistment, appointment, or separation; 84, unlawful enlistment, appointment, or separation; 85, desertion; 86, absence without leave; 87, missing movement; 88, contempt toward officials; 89, disrespect towards superior commissioned officer; 90, assaulting or willfully disobeying superior commissioned officer; 91, insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer; 92, failure to obey order or regulation; 93, cruelty and maltreatment; 94, mutiny or sedition; 95, resistance, flight, breach of arrest, and escape; 96, releasing prisoner without proper authority; 97, unlawful detention; 98, noncompliance with procedural rules; 99, misbehavior before the enemy; 100, subordinate compelling surrender; 101, improper use of countersign; 102, forcing a safeguard; 103, captured or abandoned property; 104, aiding the enemy; 105, misconduct as prisoner; 107, false official statements; 108, military property — loss, damage, destruction, or wrongful disposition; 109, property other than military property — waste, spoilage, or destruction; 110, improper hazarding of vessel; 111, drunken or reckless operation of a vehicle, aircraft, or vessel; 112, drunk on duty; 112a, wrongful use, or possession of controlled substances; 113, misbehavior of sentinel; 114, dueling; 115, malingering; 116, riot or breach of peace; 117, provoking speeches or gestures; 120, rape and sexual assault generally; 120a, stalking; 120b, rape and sexual assault of a child; 120c, sexual misconduct; 121, larceny and wrongful appropriation; 122, robbery; 123, forgery; 124, maiming; 126, arson; 127, extortion; 128, assault; 129, burglary; 130, housebreaking; 131, perjury; 132, frauds against the government; 133, conduct unbecoming an officer and a gentleman; and 134, general; of this code.

(16) "Nonmilitary offenses" mean offenses which are in the state's civilian penal statute and are not offenses in this code.

(17) "Officer" means a commissioned or warrant officer.

(18) "Officer in charge" means a member of the naval militia, the navy, the marine corps, or the coast guard as designated by appropriate authority.

(19) "Record," when used in connection with the proceedings of a court−martial, means any of the following:

(a) An official written transcript, written summary, or other writing relating to the proceedings.

(b) An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.

(20) "Senior force commander" means the commander of the same force of the state military forces as the accused.

(21) "Senior force judge advocate" means the senior judge advocate of the commander of the same force of the state military forces as the accused and who is that commander's chief legal advisor.

(22) "State active duty" means full−time duty in the state military forces under an order of the governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from duty.

(23) "State military forces" means the Wisconsin army and air national guard, the national guard, as defined in 32 USC 101, the state defense force, the organized naval militia of the state, and any other military force organized under the Constitution and laws of the state, but does not include the unorganized militia. "State military forces" does not include the national guard when under a status subjecting them to jurisdiction under 10 USC ch. 47.

(24) "Superior commissioned officer" means a commissioned officer superior in rank or command.

(24m) "This code" means this chapter.

(25) "Unit 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.

History: 2007 a. 200; 2009 a. 179; 2013 a. 201.

322.002 Article 2 — Persons subject to this code; jurisdiction. (1) Except as provided in s. 322.003, this code applies only to members of the state military forces at all times.

(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. A proper civilian court has primary jurisdiction of a nonmilitary 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.

History: 2007 a. 200; 2009 a. 179.

322.003 Article 3 — Jurisdiction to try certain personnel. (1) Each person discharged from a state military force who is later charged with having fraudulently obtained a discharge is, subject to s. 322.043, subject to trial by court−martial on that charge and is, after apprehension, subject to this code while in custody under the direction of the state military forces for that trial. Upon conviction of that charge that person is subject to trial by court−martial for all offenses under this code committed before the fraudulent discharge.

(2) No person who has deserted from a state military force may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

History: 2007 a. 200.

322.005 Article 5 — Territorial applicability of this code. (1) This code has applicability in all places, provided that either the person subject to 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.

(2) Military courts may be convened and held in units of a state military force while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

History: 2007 a. 200; 2009 a. 179.

322.006 Article 6 — Judge advocates. (1) The senior force judge 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.

(2) Convening authorities shall at all times communicate directly with their judge advocates in matters relating to the administration of military justice. The judge advocate of any command is entitled to communicate directly with the judge advocate of a superior or subordinate command, or with the state judge advocate.

(3) No person who has acted as member, military judge, trial counsel, defense counsel, or investigating officer, or who has been a witness, in any case may later act as a judge advocate to any reviewing authority upon the same case.

History: 2007 a. 200; 2009 a. 179.

SUBCHAPTER II

APPREHENSION AND RESTRAINT

322.007 Article 7 — Apprehension. (1) In this section, "apprehend" means to take a person into custody.

(2) Any person authorized by this code or by the Uniform Code of Military Justice, or by regulations issued under either, to apprehend persons subject to this code, any marshal of a court−martial appointed subject to the provisions of this code, and any peace officer or civil officer having authority to apprehend offenders under the laws of the United States or of a state, may do so upon probable cause that an offense has been committed and that the person apprehended committed it.

(3) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code.

(4) If an offender is apprehended outside the state, the offender's return to the state must be in accordance with normal extradition procedures or by reciprocal agreement.

(5) No person authorized by this section to apprehend persons subject to this code or the place where an offender is confined, restrained, held, or otherwise housed may require payment of any fee or charge for so receiving, apprehending, confining, restraining, holding, or otherwise housing a person except as otherwise provided by law.

History: 2007 a. 200; 2009 a. 179.

322.009 Article 9 — Imposition of restraint. (1) In this section:

(a) "Arrest" means the restraint of a person by an order, not imposed as a punishment for an offense, directing him or her to remain within certain specified limits.

(b) "Confinement" means the physical restraint of a person.

(2) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of

the commanding officer's command or subject to the commanding officer's authority into arrest or confinement.

(3) A commissioned officer, a warrant officer, or a civilian subject to this code or to trial 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.

(4) No person may be ordered into arrest or confinement except for probable cause.

(5) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

History: 2007 a. 200; 2009 a. 179.

322.010 Article 10 — Restraint of persons charged with offenses. Any person subject to this code charged with an offense under this code may be ordered into arrest or confinement, as circumstances may require. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform the person of the specific wrong of which the person is accused and diligent steps shall be taken to try the person or to dismiss the charges and release the person.

History: 2007 a. 200.

322.011 Article 11 — Place of confinement; reports and receiving of prisoners. (1) If a person subject to this code is confined before, during, or after trial, he or she shall be in a civilian or military confinement.

(2) No sheriff or other person authorized to receive prisoners subject to sub. (1) may refuse to receive or keep any prisoner committed to the person's charge by a commissioned officer of the state military forces, when the committing officer furnishes a statement, signed by the officer, of the offense charged against the prisoner, unless otherwise authorized by law.

(3) Every person authorized to receive prisoners subject to sub. (1) to whose charge a prisoner is committed shall, within 24 hours after that commitment or as soon as the person is released from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner, and the name of the person who ordered or authorized the commitment.

History: 2007 a. 200.

322.012 Article 12 — Confinement with enemy prisoners prohibited. No member of a state military force may be placed in confinement in immediate physical association with enemy prisoners or other foreign nationals not members of the armed forces.

History: 2007 a. 200.

322.013 Article 13 — Punishment prohibited before trial. No person, while being held for trial or awaiting a verdict, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against the person, nor shall the arrest or confinement imposed upon the person be any more rigorous than the circumstances required to insure the person's presence, but the person may be subjected to minor punishment during that period for infractions of discipline.

History: 2007 a. 200.

322.014 Article 14 — Delivery of offenders to civil authorities. (1) A person subject to this code accused of an offense under this code or under the state's civilian penal statute may be delivered to the civil authority for trial or confinement.

(2) When delivery under this section is made to any civil authority of a person undergoing sentence of a court−martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court−martial, and the offender after having answered to the civil authorities for the offense shall, upon the request of competent military authority, be returned to the place of original custody for the completion of the person's sentence.

History: 2007 a. 200.

SUBCHAPTER III

NONJUDICIAL PUNISHMENT

322.015 Article 15 — Commanding officer's nonjudicial punishment. (1) Under regulations as prescribed, any commanding officer, and for purposes of this section, officers−in−charge, may impose disciplinary punishments for minor offenses without the intervention of a court−martial. The governor, the adjutant general, or an officer of a general or flag rank in command may delegate the powers under this section to a principal assistant who is a member of a state military force.

(2) Any commanding officer may impose any of the following upon enlisted members of the officer's command:

(a) Admonition.

(b) Reprimand.

(c) Withholding of privileges for not more than 6 months, which need not be consecutive.

(d) Forfeiture of not more than 7 days' pay.

(e) Fine of not more than 7 days' pay.

(f) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction.

(g) Extra duties, including fatigue or other duties, for not more than 14 days, which need not be consecutive.

(h) Restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.

(3) 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:

(a) Any punishment authorized in sub. (2) (a), (b), and (c).

(b) Forfeiture of not more than one−half of one month's pay per month for 2 months.

(c) Fine of not more than one month's pay.

(d) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E−4 may not be reduced more than 2 pay grades.

(e) Extra duties, including fatigue or other duties, for not more than 45 days, which need not be consecutive.

(f) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.

(4) The governor, the adjutant general, an officer exercising general court−martial convening authority, or an officer of a general or flag rank in command may impose any of the following penalties:

(a) Upon officers of the officer's command, any punishment authorized in sub. (3) (a), (b), (c), and (f) and arrest in quarters for not more than 30 days, which need not be consecutive.

(b) Upon enlisted members of the officer's command, any punishment authorized in sub. (3).

(5) Whenever any of the punishments under this section are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this section.

(6) The service member shall have the right to demand trial by court−martial in lieu of nonjudicial punishment, and shall have the right to consult with a judge advocate.

(7) The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The officer also may do any of the following:

(a) Mitigate reduction in grade to forfeiture of pay.

(b) Mitigate arrest in quarters to restriction.

(c) Mitigate extra duties to restriction.

(8) The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(9) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within 15 days after the punishment is either announced or sent to the accused, as the commander may determine. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under sub. (7) by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority that is to act on the appeal may refer the case to a judge advocate for consideration and advice.

(10) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court−martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(11) Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing before, on, or after the date that punishment is imposed.

(12) Regulations may prescribe the form of records to be kept of proceedings under this section and may prescribe that certain categories of those proceedings shall be in writing.

History: 2007 a. 200; 2009 a. 179.

SUBCHAPTER IV

COURT−MARTIAL JURISDICTION

322.016 Article 16 — Courts−martial classified. The 3 kinds of courts−martial in the state military forces are as follows:

(1) General courts−martial, consisting of any of the following:

(a) A military judge and not less than 5 members.

(b) Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves.

(2) Special courts−martial, consisting of any of the following:

(a) A military judge and not less than 3 members.

(b) Only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in sub. (1) (b) so requests.

(3) Summary courts−martial, consisting of one commissioned officer.

History: 2007 a. 200; 2013 a. 201.

322.017 Article 17 — Jurisdiction of courts−martial in general. Each component of the state military forces has court−martial jurisdiction over all members of the particular component who are subject to this code. Additionally, the state military forces have court−martial jurisdiction over all members subject to this code.

History: 2007 a. 200.

322.018 Article 18 — Jurisdiction of general courts−martial. Subject to s. 322.017, general courts−martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under limitations as the governor may prescribe, adjudge any punishment not forbidden by this code.

History: 2007 a. 200.

322.019 Article 19 — Jurisdiction of special courts−martial. Subject to s. 322.017, special courts−martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under limitations as the governor may prescribe, adjudge any punishment not forbidden by this code except dishonorable discharge, dismissal, confinement for more than one year, forfeiture of pay exceeding two−thirds pay per month, or forfeiture of pay for more than one year.

History: 2007 a. 200.

322.020 Article 20 — Jurisdiction of summary courts−martial. (1) Subject to s. 322.017, summary courts−martial have jurisdiction to try persons subject to this code, except officers, cadets, candidates, and midshipmen, for any offense made punishable by this code under limitations as the governor may prescribe.

(2) No person with respect to whom summary courts−martial have jurisdiction may be brought to trial before a summary court−martial if that person objects. If objection to trial by summary court−martial is made by an accused, trial by special or general court−martial may be ordered, as may be appropriate. Summary courts−martial may, under limitations as the governor may prescribe, adjudge any punishment not forbidden by this code except dismissal, dishonorable or bad−conduct discharge, confinement for more than one month, restriction to specified limits for more than 2 months, or forfeiture of more than two−thirds of one month's pay.

History: 2007 a. 200.

SUBCHAPTER V

APPOINTMENT AND COMPOSITION OF COURTS−MARTIAL

322.022 Article 22 — Who may convene general courts−martial. (1) General courts−martial may be convened by any of the following:

(a) The governor.

(b) The adjutant general.

(c) The commanding general officer of any force of the state military forces.

(d) The commanding officer of a division or a separate brigade.

(e) The commanding officer of a separate wing.

(2) If any commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by a superior authority if considered desirable by the authority.

History: 2007 a. 200.

322.023 Article 23 — Who may convene special courts−martial. (1) Special courts−martial may be convened by any of the following:

(a) Any person who may convene a general court−martial.

(b) The commanding officer of a garrison, fort, post, camp, station, air national guard base, or naval base or station.

(c) The commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the army national guard.

(d) The commanding officer of a wing, group, separate squadron, or corresponding unit of the air national guard.

(e) The commanding officer or officer in charge of any other command when empowered by the adjutant general.

(2) If the officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by a superior authority if considered desirable by the superior competent authority.

History: 2007 a. 200.

322.024 Article 24 — Who may convene summary courts−martial. (1) Summary courts−martial may be convened by any of the following:

(a) Any person who may convene a general or special court−martial.

(b) The commanding officer of a detached company or other detachment, or corresponding unit of the army national guard.

(c) The commanding officer of a detached squadron or other detachment, or corresponding unit of the air national guard.

(d) The commanding officer or officer in charge of any other command when empowered by the adjutant general.

(2) When only one commissioned officer is present with a command or detachment that officer shall be the summary court−martial of that command or detachment and shall hear and determine all summary court−martial cases. Summary courts−martial may, however, be convened in any case by superior competent authority if considered desirable by that authority.

History: 2007 a. 200.

322.025 Article 25 — Who may serve as a member on courts−martial. (1) Any commissioned officer of the state military forces is eligible to serve on all courts−martial for the trial of any person subject to this code.

(2) Any warrant officer of the state military forces is eligible to serve on general and special courts−martial for the trial of any person subject to this code, other than a commissioned officer.

(3) Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts−martial for the trial of any enlisted member subject to this code, but that member shall serve as a member of a court only if, before the conclusion of a session called by the military judge under s. 322.039 (1) prior to trial or, in the absence of a session, before the court is assembled for the trial of the accused, the accused personally has requested orally on the record or in writing that enlisted members serve on it. After a request, the accused may not be tried by a general or special court−martial the membership of which does not include enlisted members in a number comprising at least one−third of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If the members cannot be obtained, the court may be assembled and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(4) When it can be avoided, no person subject to this code may be tried by a court−martial any member of which is junior to the accused in rank or grade.

(5) When convening a court−martial, the convening authority shall detail members of the state military forces as, in the convening authority's opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of the state military forces is eligible to serve as a member of a general or special court−martial when that member is the accuser, a witness, or has acted as investigating officer or as counsel in the same case.

(6) Before a court−martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case.

(7) The convening authority may delegate the authority under this section to a judge advocate or to any other principal assistant.

(8) In this section, "unit" means any regularly organized body of the state military forces not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one of them.

History: 2007 a. 200.

322.026 Article 26 — Military judge of a general or special court−martial. (1) A military judge shall be detailed to each general and special court−martial. The military judge shall preside over each open session of the court−martial to which the military judge has been detailed.

(2) A military judge shall meet all of the following qualifications:

(a) Be a commissioned officer of the armed forces of the United States or of a component thereof or a commissioned officer of an organized state military force.

(b) Be an attorney licensed to practice in this state or be a member of the bar of a federal court for at least 5 years.

(c) Be certified as qualified for duty as a military judge by the senior force judge advocate of the same force as the accused.

(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).

(4) The military judge of a general or special court−martial shall be designated by the state senior force judge advocate of the same force as the accused if possible, or otherwise by the senior of the senior force judge advocates, or a designee, for detail by the convening authority. Neither the convening authority nor any staff member of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to performance of duty as a military judge.

(5) No person is eligible to act as military judge in a case if that person is the accuser or a witness, or has acted as investigating officer, trial counsel, or defense counsel in the same case.

(6) The military judge of a court−martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel nor vote with the members of the court.

History: 2007 a. 200; 2009 a. 179; 2013 a. 201.

322.027 Article 27 — Detail of trial counsel and defense counsel. (1) For each general and special court−martial the authority convening the court shall detail trial counsel, defense counsel, and assistants as are appropriate.

(2) No person who has acted as investigating officer, military judge, witness or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense nor may any person who has acted for the defense act later in the same case for the prosecution.

(3) Except as provided in sub. (4), trial counsel or defense counsel detailed for a general or special court−martial must meet all of the following:

(a) A judge advocate.

(b) In the case of trial counsel, an attorney licensed to practice in this state.

(4) 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 setting forth the qualifications that counsel is all of the following:

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

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

(c) Certified as a judge advocate in the Judge Advocate General's Corps of the army, air force, navy, or the marine corps, or a judge advocate as defined in this code.

(5) Trial counsel detailed to a court−martial shall be considered a prosecutor under state statutes.

History: 2007 a. 200; 2009 a. 179.

322.028 Article 28 — Detail or employment of reporters and interpreters. Under regulations as may be prescribed, the convening authority of a general or special court−martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court and may detail or employ interpreters who shall interpret for the court.

History: 2007 a. 200.

322.029 Article 29 — Absent and additional members. (1) No member of a general or special court−martial may be absent or excused after the court has been assembled for the trial of the accused unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.

(2) Whenever a general court−martial, other than a general court−martial composed of a military judge only, is reduced below 5 members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than the applicable minimum number of 5 members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(3) Whenever a special court−martial, other than a special court−martial composed of a military judge only, is reduced below 3 members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than 3 members, unless the accused waives the number of members. The trial shall proceed with the new members present as if no evidence had been introduced previously at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation is read to the court in the presence of the military judge, the accused, and counsel for both sides.

(4) If the military judge of a court−martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of s. 322.016 (1) (b) or (2) (b), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation is read in court in the presence of the new military judge, the accused, and counsel for both sides.

History: 2007 a. 200.

SUBCHAPTER VI

PRETRIAL PROCEDURE

322.030 Article 30 — Charges and specifications. (1) Charges and specifications shall be signed by a person subject to this code under oath before a commissioned officer authorized by s. 322.136 (1) to administer oaths and shall state all of the following:

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

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

(2) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made in the interest of justice and discipline, and the person accused shall be informed of the charges as soon as practicable.

History: 2007 a. 200; 2009 a. 179.

322.031 Article 31 — Compulsory self−incrimination prohibited. (1) No person subject to this code may compel any person to incriminate himself or herself or to answer any question the answer to which may tend to incriminate him or her.

(2) No person subject to this code may interrogate or request any statement from an accused or a person suspected of an offense without first informing that person of the nature of the accusation and advising that person that the person does not have to make any statement regarding the offense of which the person is accused or suspected and that any statement made by the person may be used as evidence against the person in a trial by court−martial.

(3) No person subject to this code may compel any person to make a statement or produce evidence before any military court if the statement or evidence is not material to the issue and may tend to degrade the person.

(4) No statement obtained from any person in violation of this section or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person in a trial by court−martial.

History: 2007 a. 200.

322.032 Article 32 — Investigation. (1) No charge or specification may be referred to a general court−martial for trial until a thorough and impartial investigation of all the matters set forth has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(2) The accused shall be advised of the charges against the accused and of the right to be represented at that investigation by counsel. The accused has the right to be represented at that investigation as provided in s. 322.038 and in regulations prescribed under that section. At that investigation, full opportunity shall be given to the accused to cross−examine witnesses against the accused, if they are available, and to present anything the accused may desire in the accused's own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy shall be given to the accused.

(3) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross−examination, and presentation prescribed in sub. (2), no further investigation of that charge is necessary under this section unless it is demanded by the accused after the accused is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross−examination and to offer any new evidence in the accused's own behalf.

(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 all of the following apply:

(a) The accused is present at the investigation.

(b) The accused is informed of the nature of each uncharged offense investigated.

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

(5) The requirements of this section are binding on all persons administering this code but failure to follow them does not constitute jurisdictional error.

History: 2007 a. 200; 2009 a. 179.

322.033 Article 33 — Forwarding of charges. When a person is held for trial by general court−martial, the commanding officer shall within 8 days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the person exercising general court−martial jurisdiction. If that is not practicable, the commanding officer shall report in writing to that person the reasons for delay.

History: 2007 a. 200.

322.034 Article 34 — Advice of judge advocate and reference for trial. (1) Before directing the trial of any charge by general court−martial, the convening authority shall refer it to a judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court−martial for trial unless the convening authority has been advised in writing by a judge advocate that all the following conditions are met:

(a) The specification alleges an offense under this code.

(b) The specification is warranted by the evidence indicated in the report of investigation under s. 322.032, if there is a report.

(c) A court−martial would have jurisdiction over the accused and the offense.

(2) The advice of the judge advocate under sub. (1) with respect to a specification under a charge shall include a written and signed statement by the judge advocate that does all of the following:

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

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

(3) If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

(4) If the charges or specifications are not correct formally or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and changes in the charges and specifications as are needed to make them conform to the evidence, may be made.

History: 2007 a. 200; 2009 a. 179.

322.035 Article 35 — Service of charges. The trial counsel shall serve or 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.

History: 2007 a. 200; 2009 a. 179.

SUBCHAPTER VII

TRIAL PROCEDURE

322.036 Article 36 — Governor may prescribe regulations. Pretrial, trial, and post−trial procedures, including modes of proof, for courts−martial cases arising under this code, and for courts of inquiry, may be prescribed by the governor by regulations, or as otherwise provided by law, which shall apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the armed forces but which may not be contrary to or inconsistent with this code.

History: 2007 a. 200.

322.037 Article 37 — Unlawfully influencing action of court. (1) 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. This subsection does not apply with respect to the any of the following:

(a) General instructional or informational courses in military justice if the courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts−martial.

(b) Statements and instructions given in open court by the military judge, summary court−martial officer, or counsel.

(2) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained on active status, no person subject to this code may, in preparing any report, do any of the following:

(a) Consider or evaluate the performance of duty of any member as a member of a court−martial or witness.

(b) Give a less favorable rating or evaluation of any counsel of the accused because of zealous representation before a court−martial.

History: 2007 a. 200; 2009 a. 179.

322.038 Article 38 — Duties of trial counsel and defense counsel. (1) The trial counsel of a general or special court−martial shall be an attorney licensed to practice in this state and shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(2) (a) The accused has the right to be represented in defense before a general or special court−martial or at an investigation under s. 322.032.

(b) The accused may be represented by civilian counsel at the provision and expense of the accused.

(c) The accused may be represented by any of the following:

1. Military counsel detailed under s. 322.027.

2. Military counsel of the accused's own selection if that counsel is reasonably available as determined under par. (g).

(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.

(e) Except as provided under par. (f), if the accused is represented by military counsel of his or her own selection under par. (c) 2., any military counsel detailed under par. (c) 1. shall be excused.

(f) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under s. 322.027 to detail counsel, in that person's sole discretion may do any of the following:

1. Detail additional military counsel as assistant defense counsel.

2. If the accused is represented by military counsel of the accused's own selection under par. (c) 2., approve a request from

the accused that military counsel detailed under par. (c) 1. act as associate defense counsel.

(g) The senior force judge advocate of the same force of which the accused is a member, shall determine whether the military counsel selected by an accused is reasonably available.

(3) In any court−martial proceeding resulting in a conviction, the defense counsel may do any of the following:

(a) Forward for attachment to the record of proceedings a brief of matters as counsel determines should be considered in behalf of the accused on review, including any objection to the contents of the record which counsel considers appropriate.

(b) Assist the accused in the submission of any matter under s. 322.060.

(c) Take other action authorized by this code.

History: 2007 a. 200; 2009 a. 179.

322.039 Article 39 — Sessions. (1) At any time after the service of charges which have been referred for trial to a court−martial composed of a military judge and members, the military judge may, subject to s. 322.035, call the court into session without the presence of the members for the purpose of any of the following:

(a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty.

(b) Hearing and ruling upon any matter which may be ruled upon by the military judge under this code, whether or not the matter is appropriate for later consideration or decision by the members of the court.

(c) Holding the arraignment and receiving the pleas of the accused.

(d) Performing any other procedural function which does not require the presence of the members of the court under this code.

(2) These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of court members and without regard to s. 322.029.

(3) When the members of a court−martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

History: 2007 a. 200.

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.

History: 2007 a. 200; 2009 a. 179.

322.041 Article 41 — Challenges. (1) (a) The military judge and members of a general or special court−martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge or the court shall determine the relevancy and validity of challenges for cause and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) If exercise of a challenge for cause reduces the court below the minimum number of members required by s. 322.016, all parties shall, notwithstanding s. 322.029, either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.

(2) (a) Each accused and the trial counsel are entitled initially to one peremptory challenge of members of the court. The military judge may not be challenged except for cause.

(b) If exercise of a peremptory challenge reduces the court below the minimum number of members required by s. 322.016, the parties shall, notwithstanding s. 322.029, either exercise or waive any remaining peremptory challenge, not previously waived, against the remaining members of the court before additional members are detailed to the court.

(c) Whenever additional members are detailed to the court, and after any challenges for cause against additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

History: 2007 a. 200.

322.042 Article 42 — Oaths or affirmations. (1) Before performing their respective duties, military judges, general and special courts−martial members, trial counsel, defense counsel, reporters, and interpreters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully. The form of the oath or affirmation, the time and place of the taking, the manner of recording the same, and whether the oath or affirmation shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulation or as provided by law. These regulations may provide that an oath or affirmation to perform faithfully the duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty, and if an oath or affirmation is taken, it need not again be taken at the time the judge advocate or other person is detailed to that duty.

(2) Each witness before a court−martial shall be examined under oath or affirmation.

History: 2007 a. 200.

322.043 Article 43 — Statute of limitations. (1) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court−martial or punished under s. 322.015 if the offense was committed more than 3 years before the receipt of sworn charges and specifications by an officer exercising court−martial jurisdiction over the command or before the imposition of punishment under s. 322.015.

(2) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section.

(3) Periods in which the accused was absent from territory in which the state has the authority to apprehend him or her, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

(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) 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) 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) 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.

(5) (a) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations has expired, or will expire within 180 days after the date of dismissal of the charges and specifications, trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in par. (b) are met.

(b) The conditions referred to in par. (a) are that the new charges and specifications satisfy all of the following:

1. Be received by an officer exercising summary court−martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications.

2. Allege the same acts or omissions that were alleged in the dismissed charges or specifications, or allege acts or omissions that were included in the dismissed charges or specifications.

History: 2007 a. 200; 2009 a. 179.

322.044 Article 44 — Former jeopardy. (1) No person may, without his or her consent, be tried a 2nd time for the same offense.

(2) No proceeding in which an accused has been found guilty by a court−martial upon any charge or specification is a trial under this section until the finding of guilty has become final after review of the case has been fully completed.

(3) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial under this section.

History: 2007 a. 200.

322.045 Article 45 — Pleas of the accused. (1) If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(2) With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court−martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event, the proceedings shall continue as though the accused had pleaded not guilty.

History: 2007 a. 200.

322.046 Article 46 — Opportunity to obtain witnesses and other evidence. The trial counsel, the defense counsel, and the court−martial shall have equal opportunity to obtain witnesses and other evidence as prescribed by regulations and provided by law. Process issued in court−martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall apply the principles of law and the rules of courts−martial generally recognized in military criminal cases in the courts of the armed forces of the United States, but which may not be contrary to or inconsistent with this code. Process shall run to any part of the United States, or the territories, commonwealths, and possessions, and may be executed by civil officers as prescribed by the laws of the place where the witness or evidence is located or of the United States.

History: 2007 a. 200.

322.047 Article 47 — Refusal to appear or testify. (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:

(a) 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) 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) 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.

(2) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

History: 2007 a. 200; 2009 a. 179.

322.048 Article 48 — Contempt. A military judge may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. A person subject to this code may be punished for contempt by confinement not to exceed 30 days or a fine of $100, or both. A person not subject to this code may be punished for contempt by a military court in the same manner as a court of the state.

History: 2007 a. 200.

322.049 Article 49 — Depositions. (1) At any time after charges have been signed as provided in s. 322.030, any party may take oral or written depositions unless the military judge or summary court−martial officer hearing the case or, if the case is not being heard, an authority competent to convene a court−martial for the trial of those charges forbids it for good cause.

(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(3) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file, or similar material, may be played in evidence before any military court, if any of the following apply:

(a) The witness resides or is beyond the state in which the court is ordered to sit, or beyond one hundred miles from the place of trial or hearing.

(b) The witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing.

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

History: 2007 a. 200; 2009 a. 179.

322.050 Article 50 — Admissibility of records of courts of inquiry. (1) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court−martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of evidence.

(2) Testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(3) Testimony may also be read in evidence before a court of inquiry.

History: 2007 a. 200.

322.0505 Article 50a — Defense of mental disease or defect. (1) The accused has an affirmative defense of mental disease or defect in a trial by court−martial if, at the time of the

commission of the acts constituting the offense, the accused, as a result of a mental disease or defect, lacked substantial capacity either to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law. Mental disease or defect does not otherwise constitute a defense.

(2) The accused has the burden of proving the defense of mental disease or defect to a reasonable certainty by the greater weight of the credible evidence.

(3) Whenever lack of mental disease or defect of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the military court as to the defense of mental disease or defect under this section and charge them to find the accused any one of the following:

(a) Guilty.

(b) Not guilty.

(c) Not guilty by reason of mental disease or defect.

(4) 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 any one of the following:

(a) Guilty.

(b) Not guilty.

(c) Not guilty by reason of mental disease or defect.

(5) Notwithstanding the provisions of s. 322.052, the accused shall be found not guilty by reason of mental disease or defect if any of the following apply:

(a) A majority of the members of the court−martial present at the time the vote is taken determines that the defense of mental disease or defect has been established.

(b) In the case of a court−martial composed of a military judge only or a summary court−martial officer, the military judge or summary court−martial officer determines that the defense of mental disease or defect has been established.

History: 2007 a. 200; 2009 a. 179.

322.051 Article 51 — Voting and rulings. (1) Voting by members of a general or special court−martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall as soon as possible announce the result of the ballot to the members of the court.

(2) The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental disease or defect of the accused is final and constitutes the ruling of the court. However, the military judge may change the ruling at any time during the trial. Unless the ruling is final, if any member objects, the court shall be cleared and closed and the question decided by a voice vote as provided in s. 322.052, beginning with the junior in rank.

(3) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them with all of the following:

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

(4) Subsections (1), (2), and (3) do not apply to a court−martial composed of a military judge only. The military judge of a court−martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of a court−martial shall make a general finding and shall in addition, on request, find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear.

History: 2007 a. 200; 2009 a. 179.

322.052 Article 52 — Number of votes required. (1) No person may be convicted of an offense except as provided in s. 322.045 (2) or s. 322.051 (4) or by the concurrence of two−thirds of the members present at the time the vote is taken.

(2) All other questions to be decided by the members of a general or special court−martial shall be determined by a majority vote, but a determination to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion relating to the question of the accused's mental disease or defect is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

History: 2007 a. 200.

322.053 Article 53 — Court to announce action. A court−martial shall announce its findings and sentence to the parties as soon as determined.

History: 2007 a. 200.

322.054 Article 54 — Record of trial. (1) Each general and special court−martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his or her death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member, if the trial counsel is unable to authenticate it by reason of his or her death, disability, or absence. In a court−martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose a duty on a member under this subsection.

(2) A complete verbatim record of the proceedings and testimony shall be prepared in each general and special court−martial case resulting in a conviction, and in all other court−martial cases, the record shall contain matters as may be prescribed by regulations.

(3) Each summary court−martial shall keep a separate record of the proceedings in each case, and the record shall be authenticated in the manner as may be prescribed by regulations.

(4) A copy of the record of the proceedings of each general and special court−martial shall be given to the accused as soon as it is authenticated.

History: 2007 a. 200.

SUBCHAPTER VIII

SENTENCES

322.055 Article 55 — Cruel and unusual punishments prohibited. Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment may not be adjudged by a court−martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

History: 2007 a. 200.

322.056 Article 56 — Maximum limits. (1) The punishment which a court−martial may direct for an offense may not exceed 10 years confinement.

(2) A conviction by a general court−martial of any military offense for which an accused may receive a sentence of confinement for more than 1 year is a felony offense.

(3) Except for convictions by a summary court−martial, all other offenses are misdemeanors.

(4) A conviction by a summary court−martial is not a criminal conviction.

(5) The limits of punishment for violations of the punitive sections under Subch. X shall be prescribed by the governor according to ss. 322.018 to 322.020, but under no instance shall any punishment exceed that authorized by this code.

History: 2007 a. 200; 2013 a. 165 s. 115.

322.057 Article 57 — Effective date of sentences. (1) Whenever a sentence of a court−martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(2) Any period of confinement included in a sentence of a court−martial begins to run from the date the sentence is adjudged by the court−martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

(3) All other sentences of courts−martial are effective on the date ordered executed.

History: 2007 a. 200.

322.0575 Article 57a — Deferment of sentences. (1) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court−martial jurisdiction over the command to which the accused is currently assigned, may in that person's sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the person who granted it or, if the accused is no longer under that person's jurisdiction, by the person exercising general court−martial jurisdiction over the command to which the accused is currently assigned.

(2) (a) In any case in which a court−martial sentences an accused referred to in par. (b) to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of the accused, until after the accused has been permanently released to the state military forces by a state, the United States, or a foreign country referred to in that paragraph.

(b) Paragraph (a) applies to a person subject to this code who meets all of the following:

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.

2. After the court−martial, is returned to that state, the United States, or a foreign country under the authority of a mutual agreement or treaty, as the case may be.

(3) In any case in which a court−martial sentences an accused to confinement and the sentence to confinement has been ordered executed, but in which review of the case under s. 322.0675 is pending, the adjutant general may defer further service of the sentence to confinement while that review is pending.

(4) A sentence of confinement shall address work release privileges.

History: 2007 a. 200; 2009 a. 179.

322.058 Article 58 — Conditions of confinement. (1) A sentence of confinement adjudged by a court−martial, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place authorized by this code. Persons so confined are subject to the same discipline and treatment as persons regularly confined or committed to that place of confinement.

(2) The omission of hard labor as a sentence authorized under this code does not deprive the state confinement facility from employing it, if it otherwise is within the authority of that facility to do so.

(3) No place of confinement may require payment of any fee or charge for receiving or confining a person except as otherwise provided by law.

History: 2007 a. 200.

322.0585 Article 58a — Sentences: reduction in enlisted grade upon approval. (1) A court−martial sentence of an enlisted member in a pay grade above E−1, as approved by the convening authority, that includes a dishonorable or bad−conduct discharge, or confinement, reduces that member to pay grade E−1, effective on the date of that approval.

(2) If the sentence of a member who is reduced in pay grade under sub. (1) is set aside or disapproved, or, as finally approved, does not include any punishment named in sub. (1), the rights and privileges of which the person was deprived because of that reduction shall be restored, including pay and allowances.

History: 2007 a. 200.

322.0587 Article 58b — Sentences: forfeiture of pay and allowances during confinement. (1) A court−martial sentence described in sub. (2) shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture subject to this section shall take effect on the date determined under s. 322.057 (1) and may be deferred as provided by that subsection. The pay and allowances forfeited, in the case of a general court−martial, shall be all pay and allowances due that member during the period and, in the case of a special court−martial, shall be two−thirds of all pay due that member during the period.

(2) A sentence covered by this section is any sentence that includes any of the following:

(a) Confinement for more than 6 months.

(b) Confinement for 6 months or less and a dishonorable or bad−conduct discharge or dismissal.

(3) In a case involving an accused who has dependents, the convening authority or other person acting under s. 322.060 may waive any or all of the forfeitures of pay and allowances required by sub. (1) for a period not to exceed 6 months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

(4) If the sentence of a member who forfeits pay and allowances under sub. (1) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in sub. (2), the member shall be paid the pay and allowances that the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.

History: 2007 a. 200; 2009 a. 180.

SUBCHAPTER IX

POST−TRIAL PROCEDURE AND REVIEW OF COURTS−MARTIAL

322.059 Article 59 — Error of law; lesser included offense. (1) A finding or sentence of a court−martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(2) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

History: 2007 a. 200.

322.060 Article 60 — Action by the convening authority. (1) The findings and sentence of a court−martial shall be reported promptly to the convening authority after the announcement of the sentence.

(2) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any submission shall be in writing. Except in a summary court−martial case, a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of a judge advocate under sub. (9). In a summary court−martial case, a submission shall be made within 7 days after the sentence is announced.

(3) If the accused shows that additional time is required for the accused to submit matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period for not more than an additional 20 days.

(4) In a summary court−martial case, the accused shall be promptly provided a copy of the record of trial for use in preparing a submission.

(5) The accused may waive the right to make a submission to the convening authority under sub. (2). A waiver must be made in writing and may not be revoked. The time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of a waiver to the convening authority.

(6) The authority under this section to modify the findings and sentence of a court−martial is a matter of command prerogative involving the sole discretion of the convening authority. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court−martial jurisdiction who may take action under this section.

(7) Action on the sentence of a court−martial shall be taken by the convening authority or by another person authorized to act under this section. Action may be taken only after consideration of any matters submitted by the accused under sub. (2) or after the time for submitting matters expires, whichever is earlier. The convening authority or other person taking action, in that person's sole discretion may approve, disapprove, commute, or suspend the sentence in whole or in part.

(8) Action on the findings of a court−martial by the convening authority or other person acting on the sentence is not required. However, the person, in the person's sole discretion may do any of the following:

(a) Dismiss any charge or specification by setting aside a finding of guilty.

(b) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(9) Before acting under this section on any general or special court−martial case in which there is a finding of guilt, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action under this section shall refer the record of trial to the judge advocate, and the judge advocate shall use the record in the preparation of the recommendation. The recommendation of the judge advocate shall include matters as may be prescribed by regulation and shall be served on the accused, who may submit any matter in response. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object.

(10) The convening authority or other person taking action under this section, in the person's sole discretion, may order a proceeding in revision or a rehearing.

(11) A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court−martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision perform any of the following:

(a) Reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty.

(b) Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code.

(c) Increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

(12) A rehearing may be ordered by the convening authority or other person taking action under this section if that person disapproves the findings and sentence and states the reasons for disapproval of the findings. If a person disapproves the findings and sentence and does not order a rehearing, that person shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.

History: 2007 a. 200.

322.061 Article 61 — Withdrawal of appeal. (1) In each case subject to appellate review under this code, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to appeal. A withdrawal shall be signed by both the accused and his or her defense counsel and must be filed in accordance with appellate procedures under ch. 809.

(2) The accused may withdraw an appeal at any time in accordance with appellate procedures under ch. 809.

History: 2007 a. 200.

322.062 Article 62 — Appeal by the state. (1) In a trial by court−martial in which a punitive discharge may be adjudged, the state may appeal any of the following, other than a finding of not guilty with respect to the charge or specification by the members of the court−martial, or by a judge in a bench trial, so long as it is not made in reconsideration:

(a) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

(b) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

(c) An order or ruling which directs the disclosure of classified information.

(d) An order or ruling which imposes sanctions for nondisclosure of classified information.

(e) A refusal of the military judge to issue a protective order sought by the State to prevent the disclosure of classified information.

(f) A refusal by the military judge to enforce an order described in par. (e) that has previously been issued by appropriate authority.

(2) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. Notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(3) An appeal under this section shall be diligently prosecuted as provided by law.

(4) An appeal under this section shall be forwarded to the court prescribed in s. 322.0675. In ruling on an appeal under this section, that court may act only with respect to matters of law.

(5) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

History: 2007 a. 200.

322.063 Article 63 — Rehearings. Each rehearing under this code shall take place before a court−martial composed of members not members of the court−martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he or she was found not guilty by the first court−martial, and no sentence in excess of or more severe than the original sentence may be approved, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. If the sentence approved after the first court−martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court−martial.

History: 2007 a. 200.

322.064 Article 64 — Review by the senior force judge advocate. (1) Each general and special court−martial case in which there has been a finding of guilty shall be reviewed by the senior force judge advocate, or a designee. The senior force judge advocate, or designee, may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate's review shall be in writing and shall contain all of the following:

(a) Conclusions regarding all of the following:

1. Whether the court had jurisdiction over the accused and the offense.

2. Whether the charge and specification stated an offense.

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

(b) A response to each allegation of error made in writing by the accused.

(c) If the case is sent for action under sub. (2), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

(2) The record of trial and related documents in each case reviewed under sub. (1) shall be sent for action to the adjutant general, under any of the following circumstances:

(a) The judge advocate who reviewed the case recommends corrective action.

(b) The sentence approved under s. 322.060 extends to dismissal, a bad−conduct or dishonorable discharge, or confinement for more than 6 months.

(c) Action is otherwise required by regulations of the adjutant general.

(3) The adjutant general may do any of the following:

(a) Disapprove or approve the findings or sentence, in whole or in part.

(b) Remit, commute, or suspend the sentence in whole or in part.

(c) Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both.

(d) Dismiss the charges.

(4) If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.

(5) If the opinion of the senior force judge advocate, or designee, in the senior force judge advocate's review under sub. (1) is that corrective action is required as a matter of law and if the adjutant general does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the governor for review and action as deemed appropriate.

(6) The senior force judge advocate, or a designee, may review any case in which there has been a finding of not guilty of all charges and specifications. The senior force judge advocate, or designee, may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate's review shall be limited to questions of subject matter jurisdiction.

(7) The record of trial and related documents in each case reviewed under sub. (4) shall be sent for action to the adjutant general.

(8) The adjutant general may do any of the following:

(a) When subject matter jurisdiction is found to be lacking, void the court−martial from inception, with or without prejudice to the government, as the adjutant general deems appropriate.

(b) Return the record of trial and related documents to the senior force judge advocate for appeal by the government as provided by law.

History: 2007 a. 200; 2009 a. 179.

322.065 Article 65 — Disposition of records after review by the convening authority. Except as otherwise required by this code, all records of trial and related documents shall be transmitted and disposed of as prescribed by regulation and provided by law.

History: 2007 a. 200.

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.

History: 2007 a. 200; 2009 a. 179.

322.070 Article 70 — Appellate counsel. (1) The senior force judge advocate shall detail a judge advocate as appellate government 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.

(2) Upon an appeal by the state, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.

(3) Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.

(4) Upon the request of an accused entitled to be so represented, the state senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in subs. (2) and (3).

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

History: 2007 a. 200; 2009 a. 179.

322.071 Article 71 — Execution of sentence; suspension of sentence. (1) If the sentence of the court−martial extends to dismissal or a dishonorable or bad−conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn under s. 322.061, that part of the sentence extending to dismissal or a dishonorable or bad−conduct

discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in cases when review is completed by an appellate court prescribed in s. 322.0675, and is deemed final by the law of state where the judgment was had.

(2) If the sentence of the court−martial extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn under s. 322.061, that part of the sentence extending to dismissal or a dishonorable or bad−conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review under s. 322.064 is completed. Any other part of a court−martial sentence may be ordered executed by the convening authority or other person acting on the case under s. 322.060 when so approved under that section.

History: 2007 a. 200.

322.072 Article 72 — Vacation of suspension. (1) Before the vacation of the suspension of a special court−martial sentence, which as approved includes a bad−conduct discharge, or of any general court−martial sentence, the officer having special court−martial jurisdiction over the probationer shall hold a hearing on an alleged violation of probation. The probationer shall be represented at the hearing by military counsel if the probationer so desires.

(2) The record of the hearing and the recommendation of the officer having special court−martial jurisdiction shall be sent for action to the officer exercising general court−martial jurisdiction over the probationer. If the officer vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in this code.

(3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

History: 2007 a. 200.

322.073 Article 73 — Petition for a new trial. At any time within 2 years after approval by the convening authority of a court−martial sentence the accused may petition the adjutant general for a new trial on the grounds of newly discovered evidence or fraud on the court−martial.

History: 2007 a. 200.

322.074 Article 74 — Remission and suspension. (1) Any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the governor.

(2) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court−martial.

History: 2007 a. 200.

322.075 Article 75 — Restoration. (1) Under regulations as may be prescribed, all rights, privileges, and property affected by an executed part of a court−martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and the executed part is included in a sentence imposed upon the new trial or rehearing.

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

(3) If a previously executed sentence of dismissal is not imposed on a new trial, the governor may substitute a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to a commissioned grade and rank as in the opinion of the governor that former officer would have attained had he or she not been dismissed. The reappointment of a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the governor may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

History: 2007 a. 200; 2009 a. 179.

322.076 Article 76 — Finality of proceedings, findings, and sentences. The appellate review of records of trial provided by this code, the proceedings, findings, and sentences of courts−martial as approved, reviewed, or affirmed as required by this code, and all dismissals and discharges carried into execution under sentences by courts−martial following approval, review, or affirmation as required by this code, are final and conclusive. Orders publishing the proceedings of courts−martial and all action taken subject to those proceedings are binding upon all departments, courts, agencies, and officers of the United States and the several states, subject only to action upon a petition for a new trial as provided in s. 322.073 and to action under s. 322.074.

History: 2007 a. 200.

322.0763 Article 76a — Leave required to be taken pending review of certain court−martial convictions. Under regulations prescribed, an accused who has been sentenced by a court−martial may be required to take leave pending completion of action under this section if the sentence, as approved under s. 322.060, includes an unsuspended dismissal or an unsuspended dishonorable or bad−conduct discharge. The accused may be required to begin leave on the date on which the sentence is approved under s. 322.060 or at any time after that date, and any leave may be continued until the date on which action under this section is completed or may be terminated at any earlier time.

History: 2007 a. 200.

322.0767 Article 76b — Competency; commitment for examination and treatment. (1) The following applies to persons who are incompetent to stand trial:

(a) If a person subject to a general court−martial is found to lack substantial mental capacity to understand the proceedings or assist in his or own defense and the military judge determined that the person is likely to become competent within the period specified under s. 971.14 (5) (a), the court−martial convening authority for the person shall commit the person to the custody of the department of health services under s. 971.14 (5). If the military judge determines that the defendant is not likely to become competent in the time period specified under s. 971.14 (5), the military judge shall suspend or terminate the general court−martial.

(b) The department of health services shall submit all reports that are required under s. 971.14 (5) (b) and that pertain to a person subject to a commitment order under par. (a) to the court−martial.

(c) Upon receiving a report under s. 971.14 (5) (b), the court−martial shall make a determination as to whether the person has become competent. If the court−martial determines that the defendant has become competent, the court−martial shall terminate the commitment to the department of health services and resume the general court−martial. If the court−martial determines that the person is making sufficient progress toward becoming competent, the commitment shall continue. If the court−martial determines that the person is not likely to become competent to proceed in the time period specified under s. 971.14 (5) (a), the court−martial shall suspend or terminate the commitment order under this subsection.

(d) If a person who has been restored to competency again becomes incompetent, the maximum commitment period under s. 971.14 (5) (a) shall be as provided under s. 971.14 (5) (d).

(e) If the court−martial determines under par. (a) or (d) that the person is not likely to become competent to proceed, the court−martial may order that the person be delivered to a facility under

s. 51.15 (2), an approved public treatment facility under s. 51.45 (2), or an appropriate medical or protective placement facility.

(f) If the person is discharged from the military forces while subject to a commitment order under par. (a), the court−martial shall suspend or terminate the commitment order and may order that the person be delivered to a facility under s. 51.15 (2), an approved public treatment facility under s. 51.45 (2), or an appropriate medical or protective placement facility.

(2) The following applies to persons who are found not guilty by reason of mental disease or defect:

(a) If a court−martial finds a person not guilty by reason of mental disease or defect, the court−martial shall commit the person to the custody of the department of health services for a period not to exceed that described under s. 971.17 (1).

(b) Using the standard under s. 971.17 (3) (a), the court−martial shall determine whether the commitment order under par. (a) shall specify institutional care or conditional release.

(c) The court−martial has the same authority as a circuit court has under s. 971.17 (2) to order the department of health services to conduct a predisposition investigation using the procedure in s. 972.15 or a mental examination as provided under s. 971.17 (2) (b), (c), and (e) to assist the court−martial in determining whether to place the person in institutional care or to conditionally release the person.

(d) If the court−martial specifies institutional care, the department of health services shall place the person in an institution as provided under s. 971.17 (3) (c). If the court−martial specifies conditional release, the department of health services, in conjunction with the person's county of residence, shall develop a plan for conditional release as provided under s. 971.17 (3) (d).

(e) After the court−martial enters an order under this subsection and transfers custody of a person to the department of health services, the person shall be subject to s. 971.17 and the circuit court for the county in which the person is institutionalized or where the person is placed on conditional release shall have jurisdiction in proceedings under s. 971.17.

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 200; 2009 a. 180, 276.

SUBCHAPTER X

PUNITIVE ARTICLES

322.077 Article 77 — Principals. Any person who either commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission, or causes an act to be done which if directly performed by him or her would be punishable is a principal.

History: 2007 a. 200.

322.078 Article 78 — Accessory after the fact. Any person who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.079 Article 79 — Conviction of lesser included offense. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included.

History: 2007 a. 200.

322.080 Article 80 — Attempts. (1) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(2) Any person who attempts to commit any offense punishable by this code shall be punished as a court−martial may direct, unless otherwise specifically prescribed.

(3) Any person may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

History: 2007 a. 200.

322.081 Article 81 — Conspiracy. Any person who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court−martial may direct.

History: 2007 a. 200.

322.082 Article 82 — Solicitation. (1) Any person who solicits or advises another or others to desert in violation of s. 322.085 or mutiny in violation of s. 322.094 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, the person shall be punished as a court−martial may direct.

(2) Any person who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of s. 322.099 or sedition in violation of s. 322.094 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, the person shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.083 Article 83 — Fraudulent enlistment, appointment, or separation. Any person who does any of the following shall be punished as a court−martial may direct:

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

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

History: 2007 a. 200; 2009 a. 179.

322.084 Article 84 — Unlawful enlistment, appointment, or separation. Any person who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him or her to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.085 Article 85 — Desertion. (1) Any member of the state military forces is guilty of desertion if he or she does any of the following:

(a) Without authority goes or remains absent from his or her unit, organization, or place of duty with intent to remain away therefrom permanently.

(b) Quits his or her unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service.

(c) Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he or she has not been regularly separated, or enters any foreign armed service except when authorized by the United States.

(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 therefrom permanently is guilty of desertion.

(3) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by confinement of not more than 10 years or other punishment as a

court−martial may direct, but if the desertion or attempt to desert occurs at any other time, by punishment as a court−martial may direct.

History: 2007 a. 200; 2009 a. 179.

322.086 Article 86 — Absence without leave. Any person who, without authority, does any of the following shall be punished as a court−martial may direct:

(1) Fails to go to his or her appointed place of duty at the time prescribed.

(2) Goes from that place.

(3) Absents himself or herself or remains absent from his or her unit, organization, or place of duty at which he or she is required to be at the time prescribed.

History: 2007 a. 200.

322.087 Article 87 — Missing movement. Any person who through neglect or design misses the movement of a ship, aircraft, or unit with which he or she is required in the course of duty to move shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.088 Article 88 — Contempt toward officials. Any commissioned officer who uses contemptuous words against the president, the vice−president, members of congress, the secretary of defense, the secretary of a military department, the secretary of homeland security, or the governor or legislature of the state of Wisconsin shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.089 Article 89 — Disrespect toward superior commissioned officer. Any person who behaves with disrespect toward his or her superior commissioned officer shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.090 Article 90 — Assaulting or willfully disobeying superior commissioned officer. A court−martial may direct punishment on any person who does any of the following:

(1) Strikes his or her superior commissioned officer or draws or lifts up any weapon or offers any violence against him or her while he or she is in the execution of his or her office.

(2) Willfully disobeys a lawful command of his or her superior commissioned officer.

History: 2007 a. 200.

322.091 Article 91 — Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer. Any warrant officer or enlisted member who does any of the following shall be punished as a court−martial may direct:

(1) Strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his or her office.

(2) Willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer.

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his or her office.

History: 2007 a. 200.

322.092 Article 92 — Failure to obey order or regulation. Any person who does any of the following shall be punished as a court−martial may direct:

(1) Violates or fails to obey any lawful general order or regulation.

(2) Having knowledge of any other lawful order issued by a member of the state military forces, which it is his or her duty to obey, fails to obey the order.

(3) Is derelict in the performance of his or her duties.

History: 2007 a. 200.

322.093 Article 93 — Cruelty and maltreatment. Any person who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his or her orders shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.094 Article 94 — Mutiny or sedition. (1) (a) Any person who, 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.

(b) 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) 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.

(2) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court−martial may direct.

History: 2007 a. 200; 2009 a. 179.

322.095 Article 95 — Resistance, flight, breach of arrest, and escape. Any person who does any of the following shall be punished as a court−martial may direct:

(1) Resists apprehension.

(2) Flees from apprehension.

(3) Breaks arrest.

(4) Escapes from custody or confinement.

History: 2007 a. 200.

322.096 Article 96 — Releasing prisoner without proper authority. Any person who, without proper authority, releases any prisoner committed to his or her charge, or who through neglect or design causes any prisoner to escape, shall be punished as a court−martial may direct, whether or not the prisoner was committed in strict compliance with law.

History: 2007 a. 200.

322.097 Article 97 — Unlawful detention. Any person who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.098 Article 98 — Noncompliance with procedural rules. (1) Any person who 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.

(2) 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.

History: 2007 a. 200; 2009 a. 179.

322.099 Article 99 — Misbehavior before the enemy. Any person who before or in the presence of the enemy does any of the following shall be punished as a court−martial may direct:

(1) Runs away.

(2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his or her duty to defend.

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any command, unit, place, or military property.

(4) Casts away his or her arms or ammunition.

(5) Is guilty of cowardly conduct.

(6) Quits his or her place of duty to plunder or pillage.

(7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces.

(8) Willfully fails to do his or her utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his or her duty so to encounter, engage, capture, or destroy.

(9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle.

History: 2007 a. 200.

322.100 Article 100 — Subordinate compelling surrender. Any person who compels or attempts to compel the commander of any of the state military forces of the State, or of any other state, place, vessel, aircraft, or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.101 Article 101 — Improper use of countersign. Any person who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another, who is entitled to receive and use the parole or countersign, a different parole or countersign from that which, to his or her knowledge, he or she was authorized and required to give, shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.102 Article 102 — Forcing a safeguard. Any person who forces a safeguard shall be punished as a court−martial may direct. "Forcing a safeguard" means performing any act in violation of the protection of a detachment, guard, or detail posted by a commander for protection.

History: 2007 a. 200.

322.103 Article 103 — Captured or abandoned property. (1) All persons subject to this code shall secure all public property taken for the service of the United States or the state, or of any other state, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(2) Any person subject to this code who does any of the following shall be punished as a court−martial may direct:

(a) Fails to carry out the duties prescribed in sub. (1).

(b) Buys, sells, trades, or in any way deals in or disposes of taken, captured, or abandoned property, whereby he or she receives or expects any profit, benefit, or advantage to himself or herself or another directly or indirectly connected with himself or herself.

(c) Engages in looting or pillaging.

History: 2007 a. 200.

322.104 Article 104 — Aiding the enemy. Any person who does any of the following shall be punished as a court−martial may direct:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things.

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly.

History: 2007 a. 200.

322.105 Article 105 — Misconduct as prisoner. Any person who, while in the hands of the enemy in time of war does any of the following shall be punished as a court−martial may direct:

(1) For the purpose of securing favorable treatment by his or her captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners.

(2) While in a position of authority over such persons maltreats them without justifiable cause.

History: 2007 a. 200.

322.107 Article 107 — False official statements. Any person who, with intent to deceive, signs any false record, return, regulation, order, or other official document made in the line of duty, knowing it to be false, or makes any other false official statement made in the line of duty, knowing it to be false, shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.108 Article 108 — Military property — Loss, damage, destruction, or wrongful disposition. Any person who, without proper authority, does any of the following shall be punished as a court−martial may direct:

(1) Sells or otherwise disposes of any military property of the United States, the State, or of any state.

(2) Willfully or through neglect damages, destroys, or loses any military property of the United States, the state, or of any state.

(3) Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of any military property of the United States, the state, or of any state.

History: 2007 a. 200.

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, or of any state, shall be punished as a court−martial may direct.

History: 2007 a. 200; 2009 a. 179.

322.110 Article 110 — Improper hazarding of vessel. (1) Any person who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States, this state, or any other state military forces shall suffer punishment as a court−martial may direct.

(2) Any person who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States, the state, or any other state, state military forces shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.111 Article 111 — Drunken or reckless operation of certain vehicles, vessels, and aircraft. Any person who violates s. 23.33 (3) (a) or (4c), 23.335 (9) (a) 1. or (12) (a) or (b), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25, or 940.09 where the offense involved the operation or physical control of an aircraft, all−terrain vehicle, utility terrain vehicle, snowmobile, vehicle, off−highway motorcycle, or vessel on or off a highway shall be punished as the court−martial may direct.

History: 2007 a. 200; 2011 a. 208; 2015 a. 170.

322.112 Article 112 — Drunk on duty. Any person other than a sentinel or lookout, who is found drunk on duty, shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.1125 Article 112a — Violations regarding controlled substances. Any person who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces of the United States, the state, or of any other state, state military forces a controlled sub-

stance, as defined in s. 961.01 (4) shall be punished as a court−martial may direct.

History: 2007 a. 200; 2009 a. 179.

322.113 Article 113 — Misbehavior of sentinel. Any sentinel or look−out who is found drunk or sleeping upon his or her post or leaves it before being regularly relieved, shall be punished, if the offense is committed in time of war, by confinement of not more than 10 years or other punishment as a court−martial may direct, but if the offense is committed at any other time, by punishment as a court−martial may direct.

History: 2007 a. 200.

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.

History: 2007 a. 200; 2009 a. 179.

322.115 Article 115 — Malingering. Any person who for the purpose of avoiding work, duty, or service does any of the following shall be punished as a court−martial may direct:

(1) Feigns illness, physical disablement, mental lapse, or derangement.

(2) Intentionally inflicts self−injury.

History: 2007 a. 200.

322.116 Article 116 — Riot or breach of peace. Any person who causes or participates in any riot or breach of the peace shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.117 Article 117 — Provoking speeches or gestures. Any person who uses provoking or reproachful words or gestures towards any other person subject to this code shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.120 Article 120 — Rape and sexual assault generally. (1) In this section:

(a) "Bodily harm" means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact.

(b) 1. "Consent" means a freely given agreement to the conduct at issue by a competent person.

2. An expression of lack of consent through words or conduct means there is no consent. Submission or lack of oral or physical resistance, resulting from the use of force, threat of force, or placing another person in fear, does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent. A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear.

3. Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave consent or whether a person did not resist or ceased to resist only because of another person's actions.

(c) "Force" means any of the following:

1. The use of a weapon.

2. The use of physical strength or violence that is likely to overcome, restrain, or injure a person.

3. Inflicting physical harm that is likely to coerce or compel submission by the victim.

(d) "Grievous bodily harm" means serious bodily injury, including fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, or other severe bodily injuries. "Grievous bodily harm" does not include minor injuries such as a black eye or a bloody nose.

(e) "Sexual act" means any of the following:

1. Contact between the penis and the vulva or anus or mouth, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight.

2. The penetration, however slight, of the vulva or anus or mouth, of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(f) "Sexual contact" means any of the following:

1. Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person.

2. Any touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body.

(g) "Threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action.

(h) "Unlawful force" means an act of force done without legal justification or excuse.

(2) Any person subject to this chapter who commits a sexual act upon another person without consent by doing any of the following is guilty of rape and shall be punished as a court−martial may direct:

(a) Using unlawful force against that other person.

(b) Using force causing or likely to cause death or grievous bodily harm to any person.

(c) Threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping.

(d) Rendering that other person unconscious.

(e) Administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control his or her conduct.

(3) Any person subject to this chapter who does any of the following is guilty of sexual assault and shall be punished as a court−martial may direct:

(a) Commits a sexual act upon another person without consent by doing any of the following:

1. Threatening or placing that other person in fear.

2. Causing bodily harm to that other person.

3. Making a fraudulent representation that the sexual act serves a professional purpose.

4. Inducing a belief by any artifice, pretense, or concealment that the person is another person.

(b) Commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

(c) Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to any of the following:

1. Impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person.

2. A mental disease or defect or a physical disability, and that condition is known or reasonably should be known by the person.

(4) Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate

sub. (2) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court−martial may direct.

(5) Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate sub. (3) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court−martial may direct.

(6) In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

(7) An accused may raise any applicable defenses available under this chapter or the rules for court−martial. Marriage is not a defense for any conduct in issue in any prosecution under this section.

History: 2007 a. 200; 2013 a. 201; 2015 a. 195 s. 83.

322.1201 Article 120a — Stalking. (1) In this section:

(a) "Course of conduct" means any of the following:

1. A repeated maintenance of visual or physical proximity to a specific person.

2. A repeated conveyance of oral threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

(b) "Immediate family" means a spouse, parent, son, daughter, or sibling of the person, or a relative or intimate partner of the person who regularly resides in the household of the person or who within the six months preceding the commencement of a course of conduct regularly resided in the household of the person.

(c) "Repeated," with respect to a course of conduct, means two or more occasions of such conduct.

(2) Any person subject to this chapter who does all of the following is guilty of stalking and shall be punished as a court−martial may direct:

(a) Wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family.

(b) Has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family.

(c) Commits acts that induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family.

History: 2013 a. 201.

322.1202 Article 120b – Rape and sexual assault of a child. (1) In this section:

(a) "Child" means any person who has not attained the age of 16 years.

(b) "Force" means any of the following:

1. The use of a weapon.

2. The use of physical strength or violence that is likely to overcome, restrain, or injure a child.

3. Inflicting physical harm.

4. In the case of a parent−child or similar relationship, the abuse of parental or similar authority.

(c) "Lewd act" means any of the following:

1. Any sexual contact with a child.

2. Intentionally exposing one's genitalia, anus, buttocks, or female areola or nipple to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person.

3. Intentionally communicating indecent language to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person.

4. Any conduct intentionally done with or in the presence of a child, including via any communication technology, that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(d) "Sexual act" and "sexual contact" have the meanings given in s. 322.120 (1) (e) and (f).

(e) "Threatening or placing that child in fear" means a communication or action that is of sufficient consequence to cause the child to fear that noncompliance will result in the child or another person being subjected to the wrongful action contemplated by the communication or action.

(2) Any person subject to this chapter who does any of the following is guilty of rape and shall be punished as a court−martial may direct:

(a) Commits a sexual act upon a child who has not attained the age of 12 years.

(b) Commits a sexual act upon a child who has attained the age of 12 years by doing any of the following:

1. Using force against any person.

2. Threatening or placing that child in fear.

3. Rendering that child unconscious.

4. Administering to that child a drug, intoxicant, or other similar substance.

(3) Any person subject to this chapter who commits a sexual act upon a child who has attained the age of 12 years is guilty of sexual assault of a child and shall be punished as a court−martial may direct.

(4) Any person subject to this chapter who commits a lewd act upon a child is guilty of sexual abuse of a child and shall be punished as a court−martial may direct.

(5) In a prosecution under this section, it need not be proven that the accused knew the age of the other person engaging in the sexual act or lewd act. It is not a defense that the accused reasonably believed that the child had attained the age of 12 years.

(6) In a prosecution under this section, it need not be proven that the accused knew that the other person engaging in the sexual act or lewd act had not attained the age of 16 years, but it is a defense in a prosecution under sub. (3) or (4), which the accused must prove by a preponderance of the evidence, that the accused reasonably believed that the child had attained the age of 16 years, if the child had in fact attained at least the age of 12 years.

(7) In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

(8) Lack of consent is not an element and need not be proven in any prosecution under this section. A child not legally married to the person committing the sexual act, lewd act, or use of force cannot consent to any sexual act, lewd act, or use of force.

History: 2013 a. 201.

322.1203 Article 120c — Other sexual misconduct. (1) In this section:

(a) "Act of prostitution" means a sexual act or sexual contact on account of which anything of value is given to, or received by, any person.

(b) "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person.

(c) "Distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means.

(d) "Indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(e) "Private area" means the naked or underwear−clad genitalia, anus, buttocks, or female areola or nipple.

(f) "Under circumstances in which that other person has a reasonable expectation of privacy" means any of the following:

1. Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured.

2. Circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public.

(2) Any person subject to this chapter who, without legal justification or lawful authorization, does any of the following is guilty of sexual misconduct and shall be punished as a court−martial may direct:

(a) Knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy.

(b) Knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy.

(c) Knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in pars. (a) and (b).

(3) Any person subject to this chapter who compels another person to engage in an act of prostitution with any person is guilty of forcible pandering and shall be punished as a court−martial may direct.

(4) Any person subject to this chapter who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court−martial may direct.

History: 2013 a. 201.

322.121 Article 121 — Larceny and wrongful appropriation. (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 article of value of any kind 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, is guilty of larceny, and shall be punished as a court−martial may direct.

(2) 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.

History: 2007 a. 200; 2009 a. 179.

322.122 Article 122 — Robbery. Any person who with intent to steal takes anything of value from a person or in the presence of another person, against his or her will, by means of force or violence or fear of immediate or future injury to his or her person or property or to the person or property of a relative or member of his or her family or of anyone in his or her company at the time of the robbery, is guilty of robbery and shall be punished as a court−martial may direct.

History: 2007 a. 200.

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

(1) Falsely makes or alters any signature, to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his or her legal right or liability to his or her prejudice.

(2) Utters, offers, issues, or transfers a writing, known by him or her to be so made or altered.

History: 2007 a. 200; 2009 a. 179.

322.1235 Article 123a — Making, drawing, or uttering check, draft, or order without sufficient funds. (1) Any person who, for the procurement of any article or thing of value, with intent to defraud; 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 insufficient 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.

(3) In this section, the word "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order.

History: 2007 a. 200; 2009 a. 179.

322.124 Article 124 — Maiming. Any person who, with intent to injure, disfigure, or disable, inflicts on the person of another an injury which does any of the following shall be punished as a court−martial may direct:

(1) Seriously disfigures his or her person by a mutilation.

(2) Destroys or disables any member or organ of his or her body.

(3) Seriously diminishes his or her physical vigor by the injury of any member or organ.

History: 2007 a. 200.

322.126 Article 126 — Arson. (1) Any person who 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.

(2) 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.

History: 2007 a. 200; 2009 a. 179.

322.127 Article 127 — Extortion. Any person who communicates threats to another person with the intention of obtaining anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.128 Article 128 — Assault. (1) Any person who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is con-

summated, is guilty of assault and shall be punished as a court−martial may direct.

(2) 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) 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.

History: 2007 a. 200; 2009 a. 179.

322.129 Article 129 — Burglary. Any person who, with intent to commit an offense punishable under ss. 322.120 to 322.128, breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.130 Article 130 — Housebreaking. Any person who unlawfully enters the building or structure of another with intent to commit a criminal offense is guilty of housebreaking and shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.131 Article 131 — Perjury. Any person who in a judicial proceeding or in a course of justice willfully and corruptly does any of the following shall be punished as a court−martial may direct:

(1) Upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry.

(2) In any declaration, certificate, verification, or statement under penalty or perjury as permitted under 28 USC 1746, subscribes any false statement material to the issue or matter of inquiry.

History: 2007 a. 200.

322.132 Article 132 — Frauds against the government. Any person who does any of the following knowing it to be false or fraudulent shall be punished as a court−martial may direct:

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

(a) Makes or presents a claim.

(b) Makes or uses any writing or other paper.

(c) Makes any oath, affirmation or certification to any fact or to any writing or other paper.

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

(a) Forges or counterfeits any signature upon any writing or other paper, or uses any signature knowing it to be forged or counterfeited.

(b) Delivers to any person having authority to receive it, any amount less than that for which he or she receives a certificate or receipt.

(c) Makes or delivers to any person, a writing without having full knowledge of the truth of the statements contained in the writing.

History: 2007 a. 200; 2009 a. 179.

322.133 Article 133 — Conduct unbecoming an officer and a gentleman. Any commissioned officer, cadet, candidate, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court−martial may direct.

History: 2007 a. 200.

322.134 Article 134 — General section. Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces and all conduct of a nature to bring discredit upon the state military forces shall be taken cognizance of by a court−martial and punished at the discretion of a military court. However, where a crime constitutes an offense that violates both this code and the criminal laws of the state where the offense occurs or criminal laws of the United States, jurisdiction of the military court shall be determined under s. 322.002 (2).

History: 2007 a. 200.

SUBCHAPTER XI

MISCELLANEOUS PROVISIONS

322.135 Article 135 — Courts of inquiry. (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 have requested an inquiry.

(2) A court of inquiry consists of 3 or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

(3) Any person whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross−examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(6) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts−martial.

(7) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

History: 2007 a. 200; 2009 a. 179.

322.136 Article 136 — Authority to administer oaths and to act as notary. (1) The following persons may administer oaths for the purposes of military administration, including military justice:

(a) All judge advocates.

(b) All summary courts−martial.

(c) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(d) All commanding officers of the naval militia.

(e) All other persons designated by regulations of the armed forces of the United States or by statute.

(2) The following persons may administer oaths necessary in the performance of their duties:

(a) The president, military judge, and trial counsel for all general and special courts−martial.

(b) The president and the counsel for the court of any court of inquiry.

(c) All officers designated to take a deposition.

(d) All persons detailed to conduct an investigation.

(e) All recruiting officers.

(f) All other persons designated by regulations of the armed forces of the United States or by statute.

(3) The signature without seal of any of the above persons, together with the title of his or her office, is prima facie evidence of the person's authority.

History: 2007 a. 200.

322.137 Article 137 — Articles to be available. 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.

History: 2007 a. 200; 2009 a. 179.

322.138 Article 138 — Complaints of wrongs. Any member of the state military forces who believes himself or herself wronged by a commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court−martial jurisdiction over the officer against whom it is made. The officer exercising general court−martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and shall, as soon as possible, send to the adjutant general a true statement of that complaint, with the proceedings.

History: 2007 a. 200.

322.139 Article 139 — Redress of injuries to property. (1) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by a member of a state military force, the commanding officer may, under the regulations prescribed, investigate the complaint. The commanding officer may summon witnesses and examine them upon oath, receive depositions or other documentary evidence, and assess the damages sustained against the responsible party. The assessment of damages made by the investigator is subject to the approval of the commanding officer. The amount assessed by the commanding officer shall be charged against the pay of the offender. The order of the commanding officer directing charges is conclusive on any disbursing officer for payment to the injured party of the damages so assessed and approved.

(2) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in proportion as may be considered just upon the individual members who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

History: 2007 a. 200; 2013 a. 201.

322.140 Article 140 — Delegation by the governor. The governor may delegate any authority vested in the governor under this code, and provide for the sub−delegation of any authority, except the power given the governor by s. 322.022.

History: 2007 a. 200.

322.141 Article 141 — Payment of fees, costs, and expenses. The fees and authorized travel expenses of all witnesses, experts, victims, court reporters, and interpreters, fees for the service of process, the costs of collection, apprehension, detention and confinement, and all other necessary expenses of prosecution and the administration of military justice, not otherwise payable by any other source, shall be paid by the Wisconsin national guard.

History: 2007 a. 200.

322.142 Article 142 — Payment of fines and disposition. (1) Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the state and delivered to the court or imposing officer, or to a person executing their process. Fines may be collected in the following manner:

(a) By cash, cashier's check, or money order.

(b) By retention of any pay or allowances due or to become due the person fined from any state or the United States.

(c) By garnishment or levy, together with costs, on the wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.

(2) Any sum so received or retained shall be deposited with the Wisconsin national guard or to where the court so directs.

(3) Nothing in this code shall be construed to prohibit restitution.

History: 2007 a. 200.

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 10 USC ch. 47.

History: 2007 a. 200; 2009 a. 179.

322.144 Article 144 — Immunity for action of military courts. All persons acting under the provisions of this code, whether as a member of the military or as a civilian, shall be immune from any personal liability for any of the acts or omissions that they did or failed to do as part of their duties under this code.

History: 2007 a. 200.