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# Wisconsin Legislative Council

## ACT MEMO

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### 2023 Wisconsin Act 48 [2023 Senate Bill 167]

### Annual Reporting of Sexual Harassment and Assault in Wisconsin National Guard and Changes to Uniform Code of Military Justice

2023 Wisconsin Act 48 requires the Adjutant General to submit an annual report to the Governor and the appropriate standing committees of the Legislature on various topics related to sexual assault and sexual harassment. The act also requires the Department of Military Affairs (DMA) to submit an annual report to the appropriate standing committees of the Legislature describing any substantive changes to the federal Uniform Code of Military Justice (UCMJ) during the prior federal fiscal year.

## REPORT REGARDING SEXUAL ASSAULT AND SEXUAL HARASSMENT

The act requires the Adjutant General to submit a report to the Governor and appropriate standing committees of the Legislature annually on several topics related to sexual assault and sexual harassment reported by members of the Wisconsin National Guard. The report must also be made publicly available on DMA's website, and must contain certain information.

First, the report must include data regarding all reported incidents of sexual assault and sexual harassment made by members of the Wisconsin National Guard during the prior federal fiscal year, including the numbers of restricted and unrestricted reports of sexual assault and reports of sexual harassment and historical trends relating to that data for the five previous federal fiscal years.<sup>1</sup> For unrestricted reports of sexual assault and for reports of sexual harassment, the report must include:

- The type of conduct that was reported to have occurred.
- The duty status of the members involved at the time of the incident.
- Information on the status of the report, including whether the case was referred for additional discipline.
- A summary of any resolution or discipline taken, including whether criminal charges were referred or filed. The report must protect the privacy of victims of sexual assault and sexual harassment and may not provide any personal identifying information that would allow a victim to be identified.

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<sup>1</sup> Under federal Department of Defense regulations, a victim of sexual assault may file a restricted or unrestricted report. Very generally, a restricted report is a report in which a sexual assault victim may confidentially disclose the assault to specified individuals and receive certain care without triggering an official investigation, unless the victim consents or an established exception applies. An unrestricted report is reported to law enforcement and may be used to initiate an official investigation.

Second, the report must include a summary of any training provided to members of the Wisconsin National Guard in the preceding year related to preventing and responding to incidents of sexual assault and sexual harassment.

Third, the report must include a summary of any current National Guard Bureau policies related to preventing and responding to incidents of sexual assault and sexual harassment during the previous federal fiscal year, and a description of how those policies are being implemented in the Wisconsin National Guard.

Fourth, the report must include a summary of the current policies and procedures related to preventing and responding to incidents of sexual assault and sexual harassment in the Wisconsin National Guard and any changes made since the prior report.

The Adjutant General must submit the report by February 1 of each year, beginning with reported incidents of sexual assault and sexual harassment made on or after October 1, 2023, and publish the report on DMA's website. The report must be the subject of a public hearing, conducted at least annually, by the appropriate standing committees of the Legislature.

## **REPORT REGARDING SUBSTANTIVE CHANGES TO UCMJ**

When members of the Wisconsin National Guard are on state status, they are subject to the Wisconsin Code of Military Justice (WCMJ). The WCMJ is modeled on the UCMJ, but includes state-specific procedures and provisions. The UCMJ is regularly modified by Congress, but these changes do not affect the WCMJ unless subsequently adopted by the Wisconsin Legislature.

The act requires DMA to submit a report to the appropriate standing committees of the Legislature annually that summarizes any substantive changes that have been made to the UCMJ during the prior fiscal year, compares the changes to the WCMJ's punitive articles, and makes recommendations regarding whether those substantive changes should be incorporated into the WCMJ. A substantive change is any change that modifies the elements of, creates, or repeals a punitive article of the UCMJ.

DMA must submit the report by July 1 of each year, beginning with substantive changes made on or after October 1, 2023. The act further requires that the appropriate standing committees of the Legislature hold a public hearing on the report at least annually.

**Effective date:** The reporting requirements first apply to reported incidents of sexual assault and sexual harassment and to substantive changes to the UCMJ made on or after October 1, 2023.

For a full history of the bill, visit the Legislature's [bill history page](#).

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