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

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

10 **322.0587 Article 58b—Sentences: forfeiture of pay and allowances**
11 **during confinement. (1)** A court-martial sentence described in sub. (2) shall
12 result in the forfeiture of pay, or of pay and allowances, due that member during any
13 period of confinement or parole. The forfeiture subject to this section shall take effect
14 on the date determined under s. 322.057 (1) and may be deferred as provided by that
15 subsection. The pay and allowances forfeited, in the case of a general court-martial,
16 shall be all pay and allowances due that member during the period and, in the case
17 of a special court-martial, shall be two-thirds of all pay due that member during the
18 period.

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

21 (a) Confinement for more than 6 months.

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

24 **(3)** In a case involving an accused who has dependents, the convening
25 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. (1) (b), 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.

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.

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

1 authenticated record of trial and, if applicable, the recommendation of a judge
2 advocate under sub. (9). In a summary court-martial case, a submission shall be
3 made within 7 days after the sentence is announced.

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

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

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

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

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

1 **(8)** Action on the findings of a court-martial by the convening authority or
2 other person acting on the sentence is not required. However, the person, in the
3 person's sole discretion may do any of the following:
4 (a) Dismiss any charge or specification by setting aside a finding of guilty.
5 (b) Change a finding of guilty to a charge or specification to a finding of guilty
6 to an offense that is a lesser included offense of the offense stated in the charge or
7 specification.
8 **(9)** Before acting under this section on any general or special court-martial
9 case in which there is a finding of guilt, the convening authority or other person
10 taking action under this section shall obtain and consider the written
11 recommendation of a judge advocate. The convening authority or other person
12 taking action under this section shall refer the record of trial to the judge advocate,
13 and the judge advocate shall use the record in the preparation of the
14 recommendation. The recommendation of the judge advocate shall include matters
15 as may be prescribed by regulation and shall be served on the accused, who may
16 submit any matter in response. Failure to object in the response to the
17 recommendation or to any matter attached to the recommendation waives the right
18 to object.
19 **(10)** The convening authority or other person taking action under this section,
20 in the person's sole discretion, may order a proceeding in revision or a rehearing.
21 **(11)** A proceeding in revision may be ordered if there is an apparent error or
22 omission in the record or if the record shows improper or inconsistent action by a
23 court-martial with respect to the findings or sentence that can be rectified without
24 material prejudice to the substantial rights of the accused. In no case, however, may
25 a proceeding in revision perform any of the following:

1 (a) Reconsider a finding of not guilty of any specification or a ruling which
2 amounts to a finding of not guilty.
3 (b) Reconsider a finding of not guilty of any charge, unless there has been a
4 finding of guilty under a specification laid under that charge, which sufficiently
5 alleges a violation of some section of this code.
6 (c) Increase the severity of the sentence unless the sentence prescribed for the
7 offense is mandatory.
8 **(12)** A rehearing may be ordered by the convening authority or other person
9 taking action under this section if that person disapproves the findings and sentence
10 and states the reasons for disapproval of the findings. If a person disapproves the
11 findings and sentence and does not order a rehearing, that person shall dismiss the
12 charges. A rehearing as to the findings may not be ordered where there is a lack of
13 sufficient evidence in the record to support the findings. A rehearing as to the
14 sentence may be ordered if the convening authority or other person taking action
15 under this subsection disapproves the sentence.
16 **322.061 Article 61—Withdrawal of appeal. (1)** In each case subject to
17 appellate review under this code, the accused may file with the convening authority
18 a statement expressly withdrawing the right of the accused to appeal. A withdrawal
19 shall be signed by both the accused and his or her defense counsel and must be filed
20 in accordance with appellate procedures under ch. 809.
21 **(2)** The accused may withdraw an appeal at any time in accordance with
22 appellate procedures under ch. 809.
23 **322.062 Article 62—Appeal by the state. (1)** In a trial by court–martial
24 in which a punitive discharge may be adjudged, the state may appeal any of the
25 following, other than a finding of not guilty with respect to the charge or specification

1 by the members of the court-martial, or by a judge in a bench trial, so long as it is
2 not made in reconsideration:
3 (a) An order or ruling of the military judge which terminates the proceedings
4 with respect to a charge or specification.
5 (b) An order or ruling which excludes evidence that is substantial proof of a fact
6 material in the proceeding.
7 (c) An order or ruling which directs the disclosure of classified information.
8 (d) An order or ruling which imposes sanctions for nondisclosure of classified
9 information.
10 (e) A refusal of the military judge to issue a protective order sought by the State
11 to prevent the disclosure of classified information.
12 (f) A refusal by the military judge to enforce an order described in par. (e) that
13 has previously been issued by appropriate authority.
14 **(2)** An appeal of an order or ruling may not be taken unless the trial counsel
15 provides the military judge with written notice of appeal from the order or ruling
16 within 72 hours of the order or ruling. Notice shall include a certification by the trial
17 counsel that the appeal is not taken for the purpose of delay and, if the order or ruling
18 appealed is one which excludes evidence, that the evidence excluded is substantial
19 proof of a fact material in the proceeding.
20 **(3)** An appeal under this section shall be diligently prosecuted as provided by
21 law.
22 **(4)** An appeal under this section shall be forwarded to the court prescribed in
23 s. 322.0675. In ruling on an appeal under this section, that court may act only with
24 respect to matters of law.

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

5 **322.063 Article 63—Rehearings.** Each rehearing under this code shall take
6 place before a court-martial composed of members not members of the court-martial
7 which first heard the case. Upon a rehearing the accused may not be tried for any
8 offense of which he or she was found not guilty by the first court-martial, and no
9 sentence in excess of or more severe than the original sentence may be approved,
10 unless the sentence is based upon a finding of guilty of an offense not considered upon
11 the merits in the original proceedings, or unless the sentence prescribed for the
12 offense is mandatory. If the sentence approved after the first court-martial was in
13 accordance with a pretrial agreement and the accused at the rehearing changes a
14 plea with respect to the charges or specifications upon which the pretrial agreement
15 was based, or otherwise does not comply with the pretrial agreement, the approved
16 sentence as to those charges or specifications may include any punishment not in
17 excess of that lawfully adjudged at the first court-martial.

18 **322.064 Article 64—Review by the senior force judge advocate. (1)**
19 Each general and special court-martial case in which there has been a finding of
20 guilty shall be reviewed by the senior force judge advocate, or a designee. The senior
21 force judge advocate, or designee, may not review a case under this subsection if that
22 person has acted in the same case as an accuser, investigating officer, member of the
23 court, military judge, or counsel or has otherwise acted on behalf of the prosecution
24 or defense. The senior force judge advocate's review shall be in writing and shall
25 contain all of the following:

1 (a) Conclusions regarding all of the following:

2 1. The court had jurisdiction over the accused and the offense.

3 2. The charge and specification stated an offense.

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

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

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

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

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

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

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

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

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

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

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

21 (d) Dismiss the charges.

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

24 **(5)** If the opinion of the senior force judge advocate, or designee, in the senior
25 force judge advocate's review under sub. (1) is that corrective action is required as

1 a matter of law and if the adjutant general does not take action that is at least as
2 favorable to the accused as that recommended by the judge advocate, the record of
3 trial and action thereon shall be sent to the governor for review and action as deemed
4 appropriate.

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

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

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

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

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

20 **322.065 Article 65—Disposition of records after review by the**
21 **convening authority.** Except as otherwise required by this code, all records of trial
22 and related documents shall be transmitted and disposed of as prescribed by
23 regulation and provided by law.

24 **322.0675 Article 67a—Review by state appellate authority.** Decisions of
25 a court-martial are from a court with jurisdiction to issue felony convictions and

1 appeals are to the Wisconsin court of appeals, District IV and, if necessary, to the
2 Wisconsin Supreme Court. The appellate procedures to be followed shall be those
3 provided under ch. 809.

4 **322.070 Article 70—Appellate counsel. (1)** The senior force judge
5 advocate shall detail a judge advocate as appellate Government counsel to represent
6 the state in the review or appeal of cases specified in s. 322.0675 and before any
7 federal court when requested to do so by the state attorney general. Appellate
8 government counsel shall be an attorney licensed to practice in this state or a
9 member in good standing of the bar of the highest court of the state to which the
10 appeal is taken.

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

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

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

19 **(5)** An accused may be represented by civilian appellate counsel at no expense
20 to the State.

21 **322.071 Article 71—Execution of sentence; suspension of sentence. (1)**
22 If the sentence of the court-martial extends to dismissal or a dishonorable or
23 bad-conduct discharge and if the right of the accused to appellate review is not
24 waived, and an appeal is not withdrawn under s. 322.061, that part of the sentence
25 extending to dismissal or a dishonorable or bad-conduct discharge may not be

1 executed until there is a final judgment as to the legality of the proceedings. A
2 judgment as to the legality of the proceedings is final in cases when review is
3 completed by an appellate court prescribed in s. 322.0675, and is deemed final by the
4 law of state where the judgment was had.

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

13 **322.072 Article 72—Vacation of suspension. (1)** Before the vacation of
14 the suspension of a special court-martial sentence, which as approved includes a
15 bad-conduct discharge, or of any general court-martial sentence, the officer having
16 special court-martial jurisdiction over the probationer shall hold a hearing on an
17 alleged violation of probation. The probationer shall be represented at the hearing
18 by military counsel if the probationer so desires.

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

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

4 **322.073 Article 73—Petition for a new trial.** At any time within 2 years
5 after approval by the convening authority of a court-martial sentence the accused
6 may petition the adjutant general for a new trial on the grounds of newly discovered
7 evidence or fraud on the court-martial.

8 **322.074 Article 74—Remission and suspension. (1)** Any authority
9 competent to convene, for the command in which the accused is serving or assigned,
10 a court of the kind that imposed the sentence may remit or suspend any part or
11 amount of the unexecuted part of any sentence, including all uncollected forfeitures
12 other than a sentence approved by the governor.

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

16 **322.075 Article 75—Restoration. (1)** Under regulations as may be
17 prescribed, all rights, privileges, and property affected by an executed part of a
18 court-martial sentence which has been set aside or disapproved, except an executed
19 dismissal or discharge, shall be restored unless a new trial or rehearing is ordered
20 and the executed part is included in a sentence imposed upon the new trial or
21 rehearing.

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

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

11 **322.076 Article 76—Finality of proceedings, findings, and sentences.**
12 The appellate review of records of trial provided by this code, the proceedings,
13 findings, and sentences of courts-martial as approved, reviewed, or affirmed as
14 required by this code, and all dismissals and discharges carried into execution under
15 sentences by courts-martial following approval, review, or affirmation as required
16 by this code, are final and conclusive. Orders publishing the proceedings of
17 courts-martial and all action taken subject to those proceedings are binding upon all
18 departments, courts, agencies, and officers of the United States and the several
19 states, subject only to action upon a petition for a new trial as provided in s. 322.073
20 and to action under s. 322.074.

21 **322.0763 Article 76a—Leave required to be taken pending review of**
22 **certain court-martial convictions.** Under regulations prescribed, an accused
23 who has been sentenced by a court-martial may be required to take leave pending
24 completion of action under this section if the sentence, as approved under s. 322.060,
25 includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct

1 discharge. The accused may be required to begin leave on the date on which the
2 sentence is approved under s. 322.060 or at any time after that date, and any leave
3 may be continued until the date on which action under this section is completed or
4 may be terminated at any earlier time.

5 **322.0767 Article 76b—Competency; commitment for examination and**
6 **treatment. (1)** The following applies to persons who are incompetent to stand trial:

7 (a) If a person subject to a general court-martial is found to lack substantial
8 mental capacity to understand the proceedings or assist in his or own defense and
9 the military judge determined that the person is likely to become competent within
10 the period specified under s. 971.14(5) (a), the court-martial convening authority for
11 the person shall commit the person to the custody of the department of health and
12 family services under s. 971.14 (5). If the military judge determines that the
13 defendant is not likely to become competent in the time period specified under s.
14 971.14(5), the military judge shall suspend or terminate the general court-martial.

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

18 (c) Upon receiving a report under s. 971.17 (5) (b), the court-martial shall make
19 a determination as to whether the person has become competent. If the
20 court-martial determines that the defendant has become competent, the
21 court-martial shall terminate the commitment to the department of health and
22 family services and resume the general court-martial. If the court-martial
23 determines that the person is making sufficient progress toward becoming
24 competent, the commitment shall continue. If the court-martial determines that the
25 person is not likely to become competent to proceed in the time period specified under

1 s. 971.14 (5) (a), the court-martial shall suspend or terminate the commitment order
2 under this subsection.

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

6 (e) If the court-martial determines under par. (a) or (d) that the person is not
7 likely to become competent to proceed, the court-martial may order that the person
8 be delivered to a facility under s. 51.15 (2), an approved public treatment facility
9 under s. 51.45 (2), or an appropriate medical or protective placement facility.

10 (f) If the person is discharged from the military forces while subject to a
11 commitment order under par. (a), the court-martial shall suspend or terminate the
12 commitment order and may order that the person be delivered to a facility under s.
13 51.15 (2), an approved public treatment facility under s. 51.45 (2), or an appropriate
14 medical or protective placement facility.

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

17 (a) If a court-martial finds a person not guilty by reason of mental disease or
18 defect, the court-martial shall commit the person to the custody of the department
19 of health and family services for a period not to exceed that described under s. 971.17
20 (1).

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

24 (c) The court-martial has the same authority as a circuit court has under s.
25 971.17 (2) to order the department of health and family 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 and family 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 and family 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 and family 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.

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.

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.

1 **322.079 Article 79—Conviction of lesser included offense.** An accused
2 may be found guilty of an offense necessarily included in the offense charged or of an
3 attempt to commit either the offense charged or an offense necessarily included.

4 **322.080 Article 80—Attempts. (1)** An act, done with specific intent to
5 commit an offense under this code, amounting to more than mere preparation and
6 tending, even though failing, to effect its commission, is an attempt to commit that
7 offense.

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

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

13 **322.081 Article 81—Conspiracy.** Any person who conspires with any other
14 person to commit an offense under this code shall, if one or more of the conspirators
15 does an act to effect the object of the conspiracy, be punished as a court-martial may
16 direct.

17 **322.082 Article 82—Solicitation. (1)** Any person who solicits or advises
18 another or others to desert in violation of s. 322.085 or mutiny in violation of s.
19 322.094 shall, if the offense solicited or advised is attempted or committed, be
20 punished with the punishment provided for the commission of the offense, but, if the
21 offense solicited or advised is not committed or attempted, the person shall be
22 punished as a court-martial may direct.

23 **(2)** Any person who solicits or advises another or others to commit an act of
24 misbehavior before the enemy in violation of s. 322.099 or sedition in violation of s.
25 322.094 shall, if the offense solicited or advised is committed, be punished with the

1 punishment provided for the commission of the offense, but, if the offense solicited
2 or advised is not committed, the person shall be punished as a court-martial may
3 direct.

4 **322.083 Article 83—Fraudulent enlistment, appointment, or**
5 **separation.** Any person who does any of the following shall be punished as a
6 court-martial may direct:

7 **(1)** Procures his or her own enlistment or appointment in the state military
8 forces by knowingly false representation or deliberate concealment as to his or her
9 qualifications for that enlistment or appointment and receives pay or allowances
10 there under.

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

14 **322.084 Article 84—Unlawful enlistment, appointment, or separation.**
15 Any person who effects an enlistment or appointment in or a separation from the
16 state military forces of any person who is known to him or her to be ineligible for that
17 enlistment, appointment, or separation because it is prohibited by law, regulation,
18 or order shall be punished as a court-martial may direct.

19 **322.085 Article 85—Desertion. (1)** Any member of the state military
20 forces is guilty of desertion if he or she does any of the following:

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

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

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

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

10 **(3)** Any person found guilty of desertion or attempt to desert shall be punished,
11 if the offense is committed in time of war, by confinement of not more than 10 years
12 or other punishment as a court-martial may direct, but if the desertion or attempt
13 to desert occurs at any other time, by punishment as a court-martial may direct.

14 **322.086 Article 86—Absence without leave.** Any person who, without
15 authority, does any of the following shall be punished as a court-martial may direct:

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

17 **(2)** Goes from that place.

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

21 **322.087 Article 87—Missing movement.** Any person who through neglect
22 or design misses the movement of a ship, aircraft, or unit with which he or she is
23 required in the course of duty to move shall be punished as a court-martial may
24 direct.

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.

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.

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.

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.

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

4 **322.092 Article 92—Failure to obey order or regulation.** Any person who
5 does any of the following shall be punished as a court-martial may direct:

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

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

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

10 **322.093 Article 93—Cruelty and maltreatment.** Any person who is guilty
11 of cruelty toward, or oppression or maltreatment of, any person subject to his or her
12 orders shall be punished as a court-martial may direct.

13 **322.094 Article 94—Mutiny or sedition. (1)** Any person who does any of
14 the following shall be punished as a court-martial may direct:

15 (a) With intent to usurp or override lawful military authority, refuses, in
16 concert with any other person, to obey orders or otherwise do his or her duty or
17 creates any violence or disturbance is guilty of mutiny.

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

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

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

4 **322.095 Article 95—Resistance, flight, breach of arrest, and escape.**
5 Any person who does any of the following shall be punished as a court-martial may
6 direct:

7 **(1)** Resists apprehension.

8 **(2)** Flees from apprehension.

9 **(3)** Breaks arrest.

10 **(4)** Escapes from custody or confinement.

11 **322.096 Article 96—Releasing prisoner without proper authority.** Any
12 person who, without proper authority, releases any prisoner committed to his or her
13 charge, or who through neglect or design causes any prisoner to escape, shall be
14 punished as a court-martial may direct, whether or not the prisoner was committed
15 in strict compliance with law.

16 **322.097 Article 97—Unlawful detention.** Any person who, except as
17 provided by law or regulation, apprehends, arrests, or confines any person shall be
18 punished as a court-martial may direct.

19 **322.098 Article 98—Noncompliance with procedural rules.** Any person
20 who does any of the following shall be punished as a court-martial may direct:

21 **(1)** Is responsible for unnecessary delay in the disposition of any case of a
22 person accused of an offense under this code.

23 **(2)** Knowingly and intentionally fails to enforce or comply with any provision
24 of this code regulating the proceedings before, during, or after trial of an accused.

1 **322.099 Article 99—Misbehavior before the enemy.** Any person who
2 before or in the presence of the enemy does any of the following shall be punished as
3 a court-martial may direct:
4 **(1)** Runs away.
5 **(2)** Shamefully abandons, surrenders, or delivers up any command, unit,
6 place, or military property which it is his or her duty to defend.
7 **(3)** Through disobedience, neglect, or intentional misconduct endangers the
8 safety of any command, unit, place, or military property.
9 **(4)** Casts away his or her arms or ammunition.
10 **(5)** Is guilty of cowardly conduct.
11 **(6)** Quits his or her place of duty to plunder or pillage.
12 **(7)** Causes false alarms in any command, unit, or place under control of the
13 armed forces of the United States or the state military forces.
14 **(8)** Willfully fails to do his or her utmost to encounter, engage, capture, or
15 destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which
16 it is his or her duty so to encounter, engage, capture, or destroy.
17 **(9)** Does not afford all practicable relief and assistance to any troops,
18 combatants, vessels, or aircraft of the armed forces belonging to the United States
19 or their allies, to the state, or to any other state, when engaged in battle.
20 **322.100 Article 100—Subordinate compelling surrender.** Any person
21 who compels or attempts to compel the commander of any of the state military forces
22 of the State, or of any other state, place, vessel, aircraft, or other military property,
23 or of any body of members of the armed forces, to give it up to an enemy or to abandon
24 it, or who strikes the colors or flag to an enemy without proper authority, shall be
25 punished as a court-martial may direct.

1 **322.101 Article 101—Improper use of countersign.** Any person who in
2 time of war discloses the parole or countersign to any person not entitled to receive
3 it or who gives to another, who is entitled to receive and use the parole or countersign,
4 a different parole or countersign from that which, to his or her knowledge, he or she
5 was authorized and required to give, shall be punished as a court-martial may
6 direct.

7 **322.102 Article 102—Forcing a safeguard.** Any person who forces a
8 safeguard shall be punished as a court-martial may direct. "Forcing a safeguard"
9 means performing any act in violation of the protection of a detachment, guard, or
10 detail posted by a commander for protection.

11 **322.103 Article 103—Captured or abandoned property. (1)** All persons
12 subject to this code shall secure all public property taken for the service of the United
13 States or the state, or of any other state, and shall give notice and turn over to the
14 proper authority without delay all captured or abandoned property in their
15 possession, custody, or control.

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

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

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

23 (c) Engages in looting or pillaging.

24 **322.104 Article 104—Aiding the enemy.** Any person who does any of the
25 following shall be punished as a court-martial may direct:

1 **(1)** Aids, or attempts to aid, the enemy with arms, ammunition, supplies,
2 money, or other things.
3 **(2)** Without proper authority, knowingly harbors or protects or gives
4 intelligence to, or communicates or corresponds with or holds any intercourse with
5 the enemy, either directly or indirectly.
6 **322.105 Article 105—Misconduct as prisoner.** Any person who, while in
7 the hands of the enemy in time of war does any of the following shall be punished as
8 a court-martial may direct:
9 **(1)** For the purpose of securing favorable treatment by his or her captors acts
10 without proper authority in a manner contrary to law, custom, or regulation, to the
11 detriment of others of whatever nationality held by the enemy as civilian or military
12 prisoners.
13 **(2)** While in a position of authority over such persons maltreats them without
14 justifiable cause.
15 **322.107 Article 107—False official statements.** Any person who, with
16 intent to deceive, signs any false record, return, regulation, order, or other official
17 document made in the line of duty, knowing it to be false, or makes any other false
18 official statement made in the line of duty, knowing it to be false, shall be punished
19 as a court-martial may direct.
20 **322.108 Article 108—Military property — Loss, damage, destruction,**
21 **or wrongful disposition.** Any person who, without proper authority, does any of
22 the following shall be punished as a court-martial may direct:
23 **(1)** Sells or otherwise disposes of any military property of the United States,
24 the State, or of any state.

1 **(2)** Willfully or through neglect damages, destroys, or loses any military
2 property of the United States, the state, or of any state.
3 **(3)** Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or
4 wrongfully disposed of any military property of the United States, the state, or of any
5 state.
6 **322.109 Article 109—Property other than military property — Waste,**
7 **spoilage, or destruction.** Any person who willfully or recklessly wastes, spoils, or
8 otherwise willfully and wrongfully destroys or damages any property other than
9 military property of the United States, the State, or of any state, shall be punished
10 as a court-martial may direct.
11 **322.110 Article 110—Improper hazarding of vessel. (1)** Any person who
12 willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed
13 forces of the United States, this state, or any other state military forces shall suffer
14 punishment as a court-martial may direct.
15 **(2)** Any person who negligently hazards or suffers to be hazarded any vessel
16 of the armed forces of the United States, the state, or any other state, state military
17 forces shall be punished as a court-martial may direct.
18 **322.111 Article 111—Drunken or reckless operation of an all-terrain**
19 **vehicle, vehicle, snowmobile, aircraft, or vessel.** Any person who violates s.
20 23.33 (3) (a) or (4c), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b),
21 350.101, 940.25, or 940.09 where the offense involved the operation or physical
22 control of an aircraft, all-terrain vehicle, snowmobile, vehicle or vessel on or off a
23 highway shall be punished as the court-martial may direct.
24 **322.112 Article 112—Drunk on duty.** Any person other than a sentinel or
25 lookout, who is found drunk on duty, shall be punished as a court-martial may direct.

1 **322.1125 Article 112a—Violations regarding controlled substances. (1)**
2 Any person who wrongfully uses, possesses, manufactures, distributes, imports into
3 the customs territory of the United States, exports from the United States, or
4 introduces into an installation, vessel, vehicle, or aircraft used by or under the
5 control of the armed forces of the United States, the state, or of any other state, state
6 military forces a controlled substance, as defined in s. 961.01 (4) shall be punished
7 as a court-martial may direct.

8 **322.113 Article 113—Misbehavior of sentinel.** Any sentinel or look-out
9 who is found drunk or sleeping upon his or her post or leaves it before being regularly
10 relieved, shall be punished, if the offense is committed in time of war, by confinement
11 of not more than 10 years or other punishment as a court-martial may direct, but
12 if the offense is committed at any other time, by punishment as a court-martial may
13 direct.

14 **322.114 Article 114—Dueling.** Any person who fights or promotes, or is
15 concerned in or connives at fighting a duel, or who, having knowledge of a challenge
16 sent or about to be sent, fails to report the fact promptly to the proper authority.

17 **322.115 Article 115—Malingering.** Any person who for the purpose of
18 avoiding work, duty, or service does any of the following shall be punished as a
19 court-martial may direct:

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

21 **(2)** Intentionally inflicts self-injury.

22 **322.116 Article 116—Riot or breach of peace.** Any person who causes or
23 participates in any riot or breach of the peace shall be punished as a court-martial
24 may direct.

1 **322.117 Article 117—Provoking speeches or gestures.** Any person who
2 uses provoking or reproachful words or gestures towards any other person subject
3 to this code shall be punished as a court-martial may direct.

4 **322.120 Article 120—Rape and carnal knowledge. (1)** Any person who
5 commits an act of sexual intercourse, by force and without consent, is guilty of rape
6 and shall be punished as a court-martial may direct.

7 **(2)** Any person subject to this chapter who, under circumstances not
8 amounting to rape, commits an act of sexual intercourse with a person who is not that
9 person's spouse, and who has not attained the age of 16 years; is guilty of carnal
10 knowledge and shall be punished as a court-martial may direct.

11 **(3)** Penetration, however slight, is sufficient to complete either of these
12 offenses.

13 **(4)** In a prosecution under sub. (2), it is an affirmative defense if all of the
14 following conditions are established:

15 (a) The person with whom the accused committed the act of sexual intercourse
16 had at the time of the alleged offense attained the age of 12 years.

17 (b) The accused reasonably believed that that person had at the time of the
18 alleged offense attained the age of 16 years.

19 **(5)** The accused has the burden of proving a defense under sub. (4) by a
20 preponderance of the evidence.

21 **322.121 Article 121—Larceny and wrongful appropriation.** Any person
22 who wrongfully takes, obtains, or withholds, by any means, from the possession of
23 the owner or of any other person any money, personal property, or section of value
24 of any kind if any of the following apply shall be punished as a court-martial may
25 direct:

1 **(1)** With intent permanently to deprive or defraud another person of the use
2 and benefit of property or to appropriate it to his or her own use or the use of any
3 person other than the owner, steals that property and is guilty of larceny.
4 **(2)** With intent temporarily to deprive or defraud another person of the use and
5 benefit of property or to appropriate it to his or her own use or the use of any person
6 other than the owner, is guilty of wrongful appropriation.
7 **322.122 Article 122—Robbery.** Any person who with intent to steal takes
8 anything of value from a person or in the presence of another person, against his or
9 her will, by means of force or violence or fear of immediate or future injury to his or
10 her person or property or to the person or property of a relative or member of his or
11 her family or of anyone in his or her company at the time of the robbery, is guilty of
12 robbery and shall be punished as a court-martial may direct.
13 **322.123 Article 123—Forgery.** Any person who, with intent to defraud who
14 does any of the following shall be punished as a court-martial may direct:
15 **(1)** Falsely makes or alters any signature, to, or any part of, any writing which
16 would, if genuine, apparently impose a legal liability on another or change his or her
17 legal right or liability to his or her prejudice.
18 **(2)** Utters, offers, issues, or transfers a writing, known by him or her to be so
19 made or altered; is guilty of forgery.
20 **322.1235 Article 123a—Making, drawing, or uttering check, draft, or**
21 **order without sufficient funds.** Any person who does any of the following shall
22 be punished as a court-martial may direct:
23 **(1)** Procures any section or thing of value, with intent to defraud.
24 **(2)** Pays any past due obligation, or for any other purpose, with intent to
25 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. 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.

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.

322.126 Article 126—Arson. Any person who does any of the following shall be punished as a court-martial may direct:

(1) 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.

1 **(2)** Willfully and maliciously burns or sets fire to the property of another, except
2 as provided in sub. (1), is guilty of simple arson.

3 **322.127 Article 127—Extortion.** Any person who communicates threats to
4 another person with the intention of obtaining anything of value or any acquittance,
5 advantage, or immunity is guilty of extortion and shall be punished as a
6 court-martial may direct.

7 **322.128 Article 128—Assault.** Any person who does any of the following shall
8 be punished as a court-martial may direct:

9 **(1)** Attempts or offers with unlawful force or violence to do bodily harm to
10 another person, whether or not the attempt or offer is consummated, is guilty of
11 assault.

12 **(2)** Commits an assault with a dangerous weapon or other means or force likely
13 to produce death or grievous bodily harm is guilty of aggravated assault.

14 **(3)** Commits an assault and intentionally inflicts grievous bodily harm with or
15 without a weapon is guilty of aggravated assault.

16 **322.129 Article 129—Burglary.** Any person who, with intent to commit an
17 offense punishable under ss. 322.120 to 322.128, breaks and enters, in the nighttime,
18 the dwelling house of another, is guilty of burglary and shall be punished as a
19 court-martial may direct.

20 **322.130 Article 130—Housebreaking.** Any person who unlawfully enters
21 the building or structure of another with intent to commit a criminal offense is guilty
22 of housebreaking and shall be punished as a court-martial may direct.

23 **322.131 Article 131—Perjury.** Any person who in a judicial proceeding or in
24 a course of justice willfully and corruptly does any of the following shall be punished
25 as a court-martial may direct:

1 **(1)** Upon a lawful oath or in any form allowed by law to be substituted for an
2 oath, gives any false testimony material to the issue or matter of inquiry.
3 **(2)** In any declaration, certificate, verification, or statement under penalty or
4 perjury as permitted under 28 USC 1746, subscribes any false statement material
5 to the issue or matter of inquiry.
6 **322.132 Article 132—Frauds against the government.** Any person who
7 does any of the following knowing it to be false or fraudulent shall be punished as a
8 court-martial may direct:
9 **(1)** For the purpose of obtaining the approval, allowance, or payment of any
10 claim against the United States, the state, or of any state, or any officer:
11 (a) Makes or presents a claim.
12 (b) Makes or uses any writing or other paper.
13 (c) Makes any oath, affirmation or certification to any fact or to any writing or
14 other paper.
15 **(2)** For the purpose of defrauding the United States, the state, or of any state,
16 or any officer:
17 (a) Forges or counterfeits any signature upon any writing or other paper, or
18 uses any signature knowing it to be forged or counterfeited.
19 (b) Delivers to any person having authority to receive it, any amount less than
20 that for which he or she receives a certificate or receipt.
21 (c) Makes or delivers to any person, a writing without having full knowledge
22 of the truth of the statements contained in the writing.
23 **322.133 Article 133—Conduct unbecoming an officer and a gentleman.**
24 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.

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).

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 has 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.

1 **(5)** The members, counsel, the reporter, and interpreters of courts of inquiry
2 shall take an oath to faithfully perform their duties.
3 **(6)** Witnesses may be summoned to appear and testify and be examined before
4 courts of inquiry, as provided for courts-martial.
5 **(7)** Courts of inquiry shall make findings of fact but may not express opinions
6 or make recommendations unless required to do so by the convening authority.
7 **(8)** Each court of inquiry shall keep a record of its proceedings, which shall be
8 authenticated by the signatures of the president and counsel for the court and
9 forwarded to the convening authority. If the record cannot be authenticated by the
10 president, it shall be signed by a member in lieu of the president. If the record cannot
11 be authenticated by the counsel for the court, it shall be signed by a member in lieu
12 of the counsel.
13 **322.136 Article 136—Authority to administer oaths and to act as**
14 **notary. (1)** The following persons may administer oaths for the purposes of
15 military administration, including military justice:
16 (a) All judge advocates.
17 (b) All summary courts-martial.
18 (c) All adjutants, assistant adjutants, acting adjutants, and personnel
19 adjutants.
20 (d) All commanding officers of the naval militia.
21 (e) All other persons designated by regulations of the armed forces of the
22 United States or by statute.
23 **(2)** The following persons may administer oaths necessary in the performance
24 of their duties:

1 (a) The president, military judge, and trial counsel for all general and special
2 courts-martial.
3 (b) The president and the counsel for the court of any court of inquiry.
4 (c) All officers designated to take a deposition.
5 (d) All persons detailed to conduct an investigation.
6 (e) All recruiting officers.
7 (f) All other persons designated by regulations of the armed forces of the
8 United States or by statute.
9 **(3)** The signature without seal of any of the above persons, together with the
10 title of his or her office, is prima facie evidence of the person's authority.
11 **322.137 Article 137—Articles to be available.** The code and the manual for
12 courts-martial shall be made available to a member of the state military forces, upon
13 request by the member, for the member's personal examination.
14 **322.138 Article 138—Complaints of wrongs.** Any member of the state
15 military forces who believes himself or herself wronged by a commanding officer, and
16 who, upon due application to that commanding officer, is refused redress, may
17 complain to any superior commissioned officer, who shall forward the complaint to
18 the officer exercising general court-martial jurisdiction over the officer against
19 whom it is made. The officer exercising general court-martial jurisdiction shall
20 examine into the complaint and take proper measures for redressing the wrong
21 complained of; and shall, as soon as possible, send to the adjutant general a true
22 statement of that complaint, with the proceedings.
23 **322.139 Article 139—Redress of injuries to property. (1)** Whenever
24 complaint is made to any commanding officer that willful damage has been done to
25 the property of any person or that the person's property has been wrongfully taken

1 by members of the state military forces, that person may, under the regulations
2 prescribed, convene a board to investigate the complaint. The board shall consist of
3 from one to 3 commissioned officers and, for the purpose of that investigation, it has
4 power to summon witnesses and examine them upon oath, to receive depositions or
5 other documentary evidence, and to assess the damages sustained against the
6 responsible parties. The assessment of damages made by the board is subject to the
7 approval of the commanding officer, and in the amount approved by that officer shall
8 be charged against the pay of the offenders. The order of the commanding officer
9 directing charges herein authorized is conclusive on any disbursing officer for
10 payment to the injured parties of the damages so assessed and approved.

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

16 **322.140 Article 140—Delegation by the governor.** The governor may
17 delegate any authority vested in the governor under this code, and provide for the
18 sub-delegation of any authority, except the power given the governor by s. 322.022.

19 **322.141 Article 141—Payment of fees, costs, and expenses.** The fees and
20 authorized travel expenses of all witnesses, experts, victims, court reporters, and
21 interpreters, fees for the service of process, the costs of collection, apprehension,
22 detention and confinement, and all other necessary expenses of prosecution and the
23 administration of military justice, not otherwise payable by any other source, shall
24 be paid by the Wisconsin national guard.

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.

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

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.

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SECTION 227. Laws of 1969, chapter 20, section 10 is repealed.

SECTION 228. Initial applicability.

(1) The treatment of section 302.31 (1m) and chapter 322 of the statutes and SECTION 227 of this act first apply to acts or omissions that occur on the effective date of this subsection.

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(END)