

TODAY 10:00 AM

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4378/PT

BJH:ajs:nwn

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Revisor's Bill
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1

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

Analysis by the Legislative Reference Bureau

This correction bill, prepared by the Legislative Reference Bureau under s. 13.92 (1) (bm) 1. and 2. and (2) (i) and (L), stats., relates to 2007 Wisconsin Act 200. Specific changes are explained in the NOTES in the body of the bill.

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

SECTION 1. 20.455 (1) (b) of the statutes, as affected by 2007 Wisconsin Acts 1
and 200, is amended to read:
20.455 (1) (b) *Special counsel*. A sum sufficient, subject to the procedures
established in ss. 5.05 (2m) (c) and 14.11 (2) (c), for the compensation of special
counsel appointed as provided in ss. 5.05 (2m) (c) and, 14.11 (2), and 321.42.

NOTE: Corrects punctuation.

1 **SECTION 2.** 322.001 (4) of the statutes, as created by 2007 Wisconsin Act 200,
2 is renumbered 322.001 (24m) and amended to read:

3 322.001 (24m) “~~Code~~ This code” means this chapter.

NOTE: “This” is added for clarity. Except in 2 places, “code” is only used in ch. 322, as created by 2007 Wis. Act 200, in the phrase “this code.” Renumbers provision for proper alphabetical placement within list of definitions.

4 **SECTION 3.** 322.001 (8) of the statutes, as created by 2007 Wisconsin Act 200,
5 is amended to read:

6 322.001 (8) “Duty status other than state active duty” means any other type
7 of duty including ~~Unit Training Assemblies~~ unit training assemblies or drills but
8 excludes duty not in federal service and not full-time duty in the active service of the
9 state; under an order issued by authority of law and includes travel to and from duty.

NOTE: Makes capitalization consistent with current style.

10 **SECTION 4.** 322.001 (25) of the statutes, as created by 2007 Wisconsin Act 200,
11 is amended to read:

12 322.001 (25) “~~Unit Training Assembly~~ training assembly” means an assembly
13 for drill and instruction which may consist of a single ordered formation of a
14 company, battery, squadron, or detachment, or, when authorized by the commander,
15 a series of ordered formations of those organizations.

NOTE: Makes capitalization consistent with current style.

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

18 322.002 (2) Subject matter jurisdiction is established if a nexus exists between
19 an offense under this code and the state military force. Courts-martial have primary
20 jurisdiction of military offenses ~~as defined in s. 322.001~~. A proper civilian court has
21 primary jurisdiction of a nonmilitary offense when an act or omission violates both

1 this code and local criminal law, foreign or domestic. In this case, a court-martial
2 may be initiated only after the civilian authority has declined to prosecute or
3 dismissed the charge, provided jeopardy has not attached. Jurisdiction over
4 attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be
5 determined by the underlying offense.

NOTE: Deletes unnecessary phrase consistent with current style.

6 **SECTION 6.** 322.005 (title) and (1) of the statutes, as created by 2007 Wisconsin
7 Act 200, are amended to read:

8 **322.005 (title) Article 5—Territorial applicability of ~~the~~ this code.** (1)
9 This code has applicability in all places, provided that either the person subject to
10 ~~the~~ this code is in a duty status or, if not in a duty status, that there is a nexus between
11 the act or omission constituting the offense and the efficient functioning of the state
12 military forces; however, this grant of military jurisdiction shall neither preclude nor
13 limit civilian jurisdiction over an offense.

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

14 **SECTION 7.** 322.006 (1) of the statutes, as created by 2007 Wisconsin Act 200,
15 is amended to read:

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

NOTE: Replaces plural with singular for proper sentence agreement.

19 **SECTION 8.** 322.007 (1) of the statutes, as created by 2007 Wisconsin Act 200,
20 is amended to read:

21 **322.007 (1)** In this section, “~~apprehension~~ apprehend” means ~~the taking of~~ to
22 take a person into custody.

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

1 **SECTION 9.** 322.009 (3) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

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

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

8 **SECTION 10.** 322.015 (3) (intro.) of the statutes, as created by 2007 Wisconsin
9 Act 200, is amended to read:

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

NOTE: Inserts comma to correct grammar.

13 **SECTION 11.** 322.026 (2) (c) of the statutes, as created by 2007 Wisconsin Act
14 200, is amended to read:

15 322.026 (2) (c) ~~Certified~~ Be certified as qualified for duty as a military judge
16 by the senior force judge advocate ~~which is~~ of the same force as the accused.

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

17 **SECTION 12.** 322.026 (3) of the statutes, as created by 2007 Wisconsin Act 200,
18 is amended to read:

19 322.026 (3) In the instance when a military judge is not an attorney licensed
20 to practice in this state, the military judge shall be deemed admitted on motion,

1 subject to filing a certificate with the senior force judge advocate of the same force
2 as the accused setting forth the qualifications provided in sub. (2).

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

3 **SECTION 13.** 322.027 (3) (a) of the statutes, as created by 2007 Wisconsin Act
4 200, is amended to read:

5 322.027 (3) (a) A judge advocate ~~as defined in this code.~~

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

6 **SECTION 14.** 322.027 (4) (intro.) of the statutes, as created by 2007 Wisconsin
7 Act 200, is amended to read:

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

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

12 **SECTION 15.** 322.027 (4) (a) and (b) of the statutes, as created by 2007 Wisconsin
13 Act 200, are amended to read:

14 322.027 (4) (a) ~~Commissioned~~ A commissioned officer of the armed forces of the
15 United States or a component thereof.

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

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

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

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

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

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

4 **SECTION 17.** 322.032 (4) of the statutes, as created by 2007 Wisconsin Act 200,
5 is amended to read:

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

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

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

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

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

15 **SECTION 18.** 322.034 (2) (a) and (b) of the statutes, as created by 2007 Wisconsin
16 Act 200, are amended to read:

17 322.034 (2) (a) ~~Expressing~~ Expresses conclusions with respect to each matter
18 set forth in sub. (1).

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

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

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

3 **322.035 Article 35—Service of charges.** The trial counsel shall serve or
4 ~~caused cause~~ to be served upon the accused a copy of the charges. No person may,
5 against the person's objection, be brought to trial before a general court-martial case
6 within a period of 5 days after the service of charges upon the accused, or, in a special
7 court-martial, within a period of 3 days after the service of charges upon the accused.

NOTE: Inserts the correct word form for proper sentence agreement and moves
comma to correct grammar.

8 **SECTION 20.** 322.037 (1) (intro.) of the statutes, as created by 2007 Wisconsin
9 Act 200, is amended to read:

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

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

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

1 322.038 (2) (d) If the accused is represented by civilian counsel, military
2 counsel detailed or selected under par. (c) shall act as associate counsel unless
3 excused by the military judge at the request of the accused.

NOTE: Inserts missing article.

4 **SECTION 22.** 322.038 (2) (f) 2. of the statutes, as created by 2007 Wisconsin Act
5 200, is amended to read:

6 322.038 (2) (f) 2. If the accused is represented by military counsel of the
7 accused's own selection under par. (c) 2., ~~may~~ approve a request from the accused that
8 military counsel detailed under par. (c) 1. act as associate defense counsel.

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

9 **SECTION 23.** 322.040 of the statutes, as created by 2007 Wisconsin Act 200, is
10 amended to read:

11 **322.040 Article 40—Continuances.** The military judge of a court-martial
12 or a summary court-martial may, for reasonable cause, grant a continuance to any
13 party for such time, and as often, as may appear to be just.

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

14 **SECTION 24.** 322.043 (4) of the statutes, as created by 2007 Wisconsin Act 200,
15 is amended to read:

16 322.043 (4) When the United States is at war based on a congressional
17 declaration or by presidential declaration under the Global War on Terror, the
18 running of any statute of limitations is suspended until 2 years after the termination
19 of hostilities, as proclaimed by the president or by a joint resolution of congress, and
20 the suspension is applicable to any offense under this code under any of the following
21 circumstances:

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

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

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

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

12 **SECTION 25.** 322.047 (1) of the statutes, as created by 2007 Wisconsin Act 200,
13 is amended to read:

14 322.047 (1) Any person not subject to this code may be punished by the
15 military court in the same manner as a court of the state, if all of the following apply
16 ~~to that person:~~

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

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

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

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

4 **SECTION 26.** 322.049 (3) (a) of the statutes, as created by 2007 Wisconsin Act
5 200, is amended to read:

6 322.049 (3) (a) The witness resides or is beyond the State ~~state~~ in which the
7 court is ordered to sit, or beyond one hundred miles from the place of trial or hearing;

NOTE: Makes capitalization and punctuation consistent with current style.

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

10 322.049 (3) (b) The witness by reason of death, age, sickness, bodily infirmity,
11 imprisonment, military necessity, ~~non-amenability~~ nonamenability to process, or
12 other reasonable cause, is unable or refuses to appear and testify in person at the
13 place of trial or hearing.

NOTE: Corrects spelling.

14 **SECTION 28.** 322.049 (3) (c) of the statutes, as created by 2007 Wisconsin Act
15 200, is amended to read:

16 322.049 (3) (c) The present whereabouts of the witness is are unknown.

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

17 **SECTION 29.** 322.0505 (4) (intro.) of the statutes, as created by 2007 Wisconsin
18 Act 200, is amended to read:

19 322.0505 (4) (intro.) ~~Sub.~~ Subsection (3) does not apply to a court-martial
20 composed of a military judge only. In the case of a court-martial composed of a
21 military judge only or a summary court-martial officer, whenever mental disease or

1 defect of the accused with respect to an offense is properly at issue, the military judge
2 or summary court-martial officer shall find the accused of any one of the following:

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

3 **SECTION 30.** 322.051 (3) (a), (b), (c) and (d) of the statutes, as created by 2007
4 Wisconsin Act 200, are amended to read:

5 322.051 (3) (a) ~~The~~ That the accused shall be presumed to be innocent until his
6 or her guilt is established by legal and competent evidence beyond reasonable doubt.

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

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

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

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

14 **SECTION 31.** 322.0575 (2) (b) 1. of the statutes, as created by 2007 Wisconsin
15 Act 200, is amended to read:

16 322.0575 (2) (b) 1. While in the custody of a state, the United States, or a foreign
17 country, is temporarily returned by that state, the United States, or a foreign country
18 to the state military forces for trial by court-martial.

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

19 **SECTION 32.** 322.064 (1) (a) 1., 2. and 3. of the statutes, as created by 2007
20 Wisconsin Act 200, are amended to read:

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

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

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

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

6 **SECTION 33.** 322.0675 of the statutes, as created by 2007 Wisconsin Act 200,
7 is amended to read:

8 **322.0675 Article 67a—Review by state appellate authority.** Decisions of
9 a court-martial are from a court with jurisdiction to issue felony convictions, and
10 appeals are to the Wisconsin court of appeals, District IV and, if necessary, to the
11 Wisconsin Supreme Court. The appellate procedures to be followed shall be those
12 provided under ch. 809.

NOTE: Inserts comma to correct grammar.

13 **SECTION 34.** 322.070 (1) and (5) of the statutes, as created by 2007 Wisconsin
14 Act 200, are amended to read:

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

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

NOTE: Makes capitalization consistent with current style.

1 **SECTION 35.** 322.075 (2) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 322.075 (2) If a previously executed sentence of dishonorable or bad-conduct
4 discharge is not imposed on a new trial, the governor may substitute ~~therefore~~
5 therefor a form of discharge authorized for administrative issuance unless the
6 accused is to serve out the remainder of the accused's enlistment.

NOTE: Corrects spelling.

7 **SECTION 36.** 322.083 (1) and (2) of the statutes, as created by 2007 Wisconsin
8 Act 200, are amended to read:

9 322.083 (1) Procures his or her own enlistment or appointment in the state
10 military forces by ~~knowingly~~ knowing false representation or deliberate concealment
11 as to his or her qualifications for that enlistment or appointment and receives pay
12 or allowances ~~there under~~ thereunder.

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

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

16 **SECTION 37.** 322.085 (1) (a) and (2) of the statutes, as created by 2007 Wisconsin
17 Act 200, are amended to read:

18 322.085 (1) (a) Without authority goes or remains absent from his or her unit,
19 organization, or place of duty with intent to remain away ~~there from~~ therefrom
20 permanently.

21 (2) Any commissioned officer of the state military forces who, after tender of
22 his or her resignation and before notice of its acceptance, quits his or her post or

1 proper duties without leave and with intent to remain away ~~there from~~ therefrom
2 permanently is guilty of desertion.

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

3 **SECTION 38.** 322.094 (1) (intro.) and (a) of the statutes, as created by 2007
4 Wisconsin Act 200, are consolidated, renumbered 322.094 (1) (a) and amended to
5 read:

6 322.094 (1) (a) Any person who ~~does any of the following shall be punished as~~
7 ~~a court-martial may direct:~~ (a) With, with intent to usurp or override lawful military
8 authority, refuses, in concert with any other person, to obey orders or otherwise do
9 his or her duty or creates any violence or disturbance is guilty of mutiny.

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

10 **SECTION 39.** 322.094 (1) (b) and (c) of the statutes, as created by 2007 Wisconsin
11 Act 200, are amended to read:

12 322.094 (1) (b) ~~With~~ Any person who, with intent to cause the overthrow or
13 destruction of lawful civil authority, creates, in concert with any other person, revolt,
14 violence, or other disturbance against that authority is guilty of sedition.

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

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

1 **SECTION 40.** 322.098 (intro.) (except 322.098 (title)) and (1) of the statutes, as
2 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.098 (1) and
3 amended to read:

4 322.098 (1) Any person who ~~does any of the following shall be punished as a~~
5 ~~court-martial may direct: (1) Is~~ is responsible for unnecessary delay in the
6 disposition of any case of a person accused of an offense under this code shall be
7 punished as a court-martial may direct.

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.098 (intro.) and s. 322.098 (1) by combining the 2 provisions. See the next section of this bill.

8 **SECTION 41.** 322.098 (2) of the statutes, as created by 2007 Wisconsin Act 200,
9 is amended to read:

10 322.098 (2) ~~Knowingly~~ Any person who knowingly and intentionally fails to
11 enforce or comply with any provision of this code regulating the proceedings before,
12 during, or after trial of an accused shall be punished as a court-martial may direct.

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

13 **SECTION 42.** 322.109 of the statutes, as created by 2007 Wisconsin Act 200, is
14 amended to read:

15 **322.109 Article 109—Property other than military property — Waste,**
16 **spoilage, or destruction.** Any person who willfully or recklessly wastes, spoils, or
17 otherwise willfully and wrongfully destroys or damages any property other than
18 military property of the United States, the State state, or of any state, shall be
19 punished as a court-martial may direct.

NOTE: Makes capitalization consistent with current style.

1 **SECTION 43.** 322.1125 (1) of the statutes, as created by 2007 Wisconsin Act 200,
2 is renumbered 322.1125.

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

3 **SECTION 44.** 322.114 of the statutes, as created by 2007 Wisconsin Act 200, is
4 amended to read:

5 **322.114 Article 114—Dueling.** Any person who fights or promotes, or is
6 concerned in or connives at fighting a duel, or who, having knowledge of a challenge
7 sent or about to be sent, fails to report the fact promptly to the proper authority, shall
8 be punished as a court-martial may direct.

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

9 **SECTION 45.** 322.121 (intro.) (except 322.121 (title)) and (1) of the statutes, as
10 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.121 (1) and
11 amended to read:

12 322.121 (1) Any person who wrongfully takes, obtains, or withholds, by any
13 means, from the possession of the owner or of any other person any money, personal
14 property, or ~~section~~ article of value of any kind ~~if any of the following apply shall be~~
15 ~~punished as a court-martial may direct: (1) With~~ with intent permanently to
16 deprive or defraud another person of the use and benefit of property or to appropriate
17 it to his or her own use or the use of any person other than the owner, steals that
18 property ~~and, is guilty of larceny, and shall be punished as a court-martial may~~
19 direct.

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

1 **SECTION 46.** 322.121 (2) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 322.121 (2) With Any person who wrongfully takes, obtains, or withholds, by
4 any means, from the possession of the owner or of any other person any money,
5 personal property, or article of value of any kind with intent temporarily to deprive
6 or defraud another person of the use and benefit of property or to appropriate it to
7 his or her own use or the use of any person other than the owner, is guilty of wrongful
8 appropriation and shall be punished as a court-martial may direct.

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

9 **SECTION 47.** 322.123 (intro.) and (2) of the statutes, as created by 2007
10 Wisconsin Act 200, are amended to read:

11 **322.123 Article 123—Forgery.** (intro.) Any person who, with intent to
12 defraud ~~who~~, does any of the following is guilty of forgery and shall be punished as
13 a court-martial may direct:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, moves text from s. 322.123 (2) to s. 322.123 (intro.) to correct sentence structure so that the moved language applies to both s. 322.123 (1) and (2). Deletes unnecessary "who" and adds necessary comma.

16 **SECTION 48.** 322.1235 (intro.) (except 322.1235 (title)), (1) and (2) of the
17 statutes, as created by 2007 Wisconsin Act 200, are renumbered 322.1235 (1) (intro.),
18 (a) and (b) and amended to read:

19 322.1235 (1) (intro.) Any person who ~~does~~ makes, draws, utters, or delivers any
20 check, draft, or order for the payment of money upon any bank or other depository,

1 knowing at the time that the maker or drawer has not or will not have sufficient
2 funds in, or credit with, the bank or other depository for the payment of that check,
3 draft, or order in full upon its presentment for any of the following purposes shall be
4 punished as a court-martial may direct:

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

7 (b) Pays For the payment of any past due obligation, or for any other purpose,
8 with intent to deceive; makes, draws, utters, or delivers any check, draft, or order for
9 the payment of money upon any bank or other depository, knowing at the time that
10 the maker or drawer has not or will not have sufficient funds in, or credit with, the
11 bank or other depository for the payment of that check, draft, or order in full upon
12 its presentment.

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

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

1 **SECTION 49.** 322.126 (intro.) (except 322.126 (title)) and (1) of the statutes, as
2 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.126 (1) and
3 amended to read:

4 322.126 (1) Any person who ~~does any of the following shall be punished as a~~
5 ~~court-martial may direct: (1) Willfully~~ willfully and maliciously burns or sets on fire
6 an inhabited dwelling, or any other structure, movable or immovable, in which the
7 offender knows there is at the time a human being, is guilty of aggravated arson and
8 shall be punished as a court-martial may direct.

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

9 **SECTION 50.** 322.126 (2) of the statutes, as created by 2007 Wisconsin Act 200,
10 is amended to read:

11 322.126 (2) ~~Willfully~~ Any person who willfully and maliciously burns or sets
12 fire to the property of another, except as provided in sub. (1), is guilty of simple arson
13 and shall be punished as a court-martial may direct.

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

14 **SECTION 51.** 322.128 (intro.) (except 322.128 (title)) and (1) of the statutes, as
15 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.128 (1) and
16 amended to read:

17 322.128 (1) Any person who ~~does any of the following shall be punished as a~~
18 ~~court-martial may direct: (1) Attempts~~ attempts or offers with unlawful force or
19 violence to do bodily harm to another person, whether or not the attempt or offer is

1 consummated, is guilty of assault and shall be punished as a court-martial may
2 direct.

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

3 **SECTION 52.** 322.128 (2) and (3) of the statutes, as created by 2007 Wisconsin
4 Act 200, are amended to read:

5 322.128 (2) ~~Commits~~ Any person who commits an assault with a dangerous
6 weapon or other means or force likely to produce death or grievous bodily harm is
7 guilty of aggravated assault and shall be punished as a court-martial may direct.

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

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

11 **SECTION 53.** 322.132 (1) (intro.) and (2) (intro.) of the statutes, as created by
12 2007 Wisconsin Act 200, are amended to read:

13 322.132 (1) (intro.) For the purpose of obtaining the approval, allowance, or
14 payment of any claim against the United States, the state, ~~or of any state~~, or any
15 officer:

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

NOTE: Deletes unnecessary language.

18 **SECTION 54.** 322.135 (1) of the statutes, as created by 2007 Wisconsin Act 200,
19 is amended to read:

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

NOTE: Inserts "have" to correct grammar.

4 **SECTION 55.** 322.137 of the statutes, as created by 2007 Wisconsin Act 200, is
5 amended to read:

6 **322.137 Article 137—Articles to be available.** ~~The~~ This code and the
7 manual for courts-martial shall be made available to a member of the state military
8 forces, upon request by the member, for the member's personal examination.

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

9 **SECTION 56.** 322.143 of the statutes, as created by 2007 Wisconsin Act 200, is
10 amended to read:

11 **322.143 Article 143—Uniformity of interpretation.** This code shall be so
12 construed as to effectuate its general purpose to make it uniform, so far as practical,
13 with ~~the~~ 10 USC ch. 47.

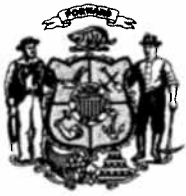
NOTE: Deletes unnecessary word.

14 **SECTION 57.** 2007 Wisconsin Act 200, section 2 is amended by replacing
15 "Wisconsin national guard or state defense force;" with "Wisconsin national guard
16 or state defense force;".

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

17 **SECTION 58.** 2007 Wisconsin Act 200, section 122 is amended by replacing
18 "~~accoutrements moneys, or stores that~~" with "~~accoutrements, moneys, or stores,~~
19 ~~that~~".

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



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4378/v²

BJH:cjs:jf

RMR

+wj

2007 BILL

Now

changes on pp. 18-19.

Do Not Gen

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

Analysis by the Legislative Reference Bureau

This correction bill, prepared by the Legislative Reference Bureau under s. 13.92 (1) (bm) 1. and 2. and (2) (i) and (L), stats., relates to 2007 Wisconsin Act 200. Specific changes are explained in the NOTES in the body of the bill.

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

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

BILL

1 20.455 (1) (b) *Special counsel*. A sum sufficient, subject to the procedures
2 established in ss. 5.05 (2m) (c) and 14.11 (2) (c), for the compensation of special
3 counsel appointed as provided in ss. 5.05 (2m) (c) ~~and~~, 14.11 (2), and 321.42.

NOTE: Corrects punctuation.

4 **SECTION 2.** 322.001 (4) of the statutes, as created by 2007 Wisconsin Act 200,
5 is renumbered 322.001 (24m) and amended to read:

6 322.001 (24m) "~~Code~~ This code" means this chapter.

NOTE: "This" is added for clarity. Except in 2 places, "code" is only used in ch. 322,
as created by 2007 Wis. Act 200, in the phrase "this code." Renumbers provision for proper
alphabetical placement within list of definitions.

7 **SECTION 3.** 322.001 (8) of the statutes, as created by 2007 Wisconsin Act 200,
8 is amended to read:

9 322.001 (8) "Duty status other than state active duty" means any other type
10 of duty including ~~Unit Training Assemblies~~ unit training assemblies or drills but
11 excludes duty not in federal service and not full-time duty in the active service of the
12 state; under an order issued by authority of law and includes travel to and from duty.

NOTE: Makes capitalization consistent with current style.

13 **SECTION 4.** 322.001 (25) of the statutes, as created by 2007 Wisconsin Act 200,
14 is amended to read:

15 322.001 (25) "~~Unit Training Assembly~~ training assembly" means an assembly
16 for drill and instruction which may consist of a single ordered formation of a
17 company, battery, squadron, or detachment, or, when authorized by the commander,
18 a series of ordered formations of those organizations.

NOTE: Makes capitalization consistent with current style.

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

BILL

1 322.002 (2) Subject matter jurisdiction is established if a nexus exists between
2 an offense under this code and the state military force. Courts-martial have primary
3 jurisdiction of military offenses ~~as defined in s. 322.001~~. A proper civilian court has
4 primary jurisdiction of a nonmilitary offense when an act or omission violates both
5 this code and local criminal law, foreign or domestic. In this case, a court-martial
6 may be initiated only after the civilian authority has declined to prosecute or
7 dismissed the charge, provided jeopardy has not attached. Jurisdiction over
8 attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be
9 determined by the underlying offense.

NOTE: Deletes unnecessary phrase consistent with current style.

10 **SECTION 6.** 322.005 (title) and (1) of the statutes, as created by 2007 Wisconsin
11 Act 200, are amended to read:

12 **322.005 (title) Article 5—Territorial applicability of the this code. (1)**
13 This code has applicability in all places, provided that either the person subject to
14 ~~the this code~~ is in a duty status or, if not in a duty status, that there is a nexus between
15 the act or omission constituting the offense and the efficient functioning of the state
16 military forces; however, this grant of military jurisdiction shall neither preclude nor
17 limit civilian jurisdiction over an offense.

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

18 **SECTION 7.** 322.006 (1) of the statutes, as created by 2007 Wisconsin Act 200,
19 is amended to read:

20 322.006 (1) The senior force judge ~~advocates~~ advocate in each of the state's
21 military forces or that judge advocate's delegates shall make frequent inspections in
22 the field in supervision of the administration of military justice in that force.

NOTE: Replaces plural with singular for proper sentence agreement.

BILL

1 **SECTION 8.** 322.007 (1) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

3 322.007 (1) In this section, “~~apprehension~~ apprehend” means ~~the taking of to~~
4 take a person into custody.

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

5 **SECTION 9.** 322.009 (3) of the statutes, as created by 2007 Wisconsin Act 200,
6 is amended to read:

7 322.009 (3) A commissioned officer, a warrant officer, or a civilian subject to
8 this code or to trial ~~there under~~ thereunder may be ordered into arrest or
9 confinement only by a commanding officer to whose authority the person is subject,
10 by an order, oral or written, delivered in person or by another commissioned officer.
11 The authority to order persons into arrest or confinement may not be delegated.

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

12 **SECTION 10.** 322.015 (3) (intro.) of the statutes, as created by 2007 Wisconsin
13 Act 200, is amended to read:

14 322.015 (3) (intro.) Any commanding officer of the grade of major or lieutenant
15 commander, or above, may impose any of the following upon enlisted members of the
16 officer’s command:

NOTE: Inserts comma to correct grammar.

17 **SECTION 11.** 322.026 (2) (c) of the statutes, as created by 2007 Wisconsin Act
18 200, is amended to read:

19 322.026 (2) (c) ~~Certified~~ Be certified as qualified for duty as a military judge
20 by the senior force judge advocate ~~which is of~~ of the same force as the accused.

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

BILL

1 **SECTION 12.** 322.026 (3) of the statutes, as created by 2007 Wisconsin Act 200,
2 is amended to read:

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

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

7 **SECTION 13.** 322.027 (3) (a) of the statutes, as created by 2007 Wisconsin Act
8 200, is amended to read:

9 322.027 (3) (a) A judge advocate ~~as defined in this code~~.

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

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

12 322.027 (4) (intro.) In the instance when a defense counsel is not an attorney
13 licensed to practice in this state, the defense counsel shall be deemed admitted on
14 motion, subject to filing a certificate with the military judge setting forth the
15 qualifications that counsel is all of the following:

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

16 **SECTION 15.** 322.027 (4) (a) and (b) of the statutes, as created by 2007 Wisconsin
17 Act 200, are amended to read:

18 322.027 (4) (a) ~~Commissioned~~ A commissioned officer of the armed forces of the
19 United States or a component thereof.

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

BILL

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

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

3 322.030 (1) (a) ~~The~~ That the signer has personal knowledge of, or has
4 investigated, the matters set forth in the charges and specifications.

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

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

6 **SECTION 17.** 322.032 (4) of the statutes, as created by 2007 Wisconsin Act 200,
7 is amended to read:

8 322.032 (4) If evidence adduced in an investigation under this section indicates
9 that the accused committed an uncharged offense, the investigating officer may
10 investigate the subject matter of that offense without the accused having first been
11 charged with the offense if ~~the accused is afforded~~ all of the following apply:

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

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

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

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

17 **SECTION 18.** 322.034 (2) (a) and (b) of the statutes, as created by 2007 Wisconsin
18 Act 200, are amended to read:

19 322.034 (2) (a) ~~Expressing~~ Expresses conclusions with respect to each matter
20 set forth in sub. (1).

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

BILL

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

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

3 **322.035 Article 35—Service of charges.** The trial counsel shall serve or
4 ~~caused~~ cause to be served upon the accused a copy of the charges. No person may,
5 against the person's objection, be brought to trial before a general court-martial case
6 within a period of 5 days after the service of charges upon the accused, or, in a special
7 court-martial, within a period of 3 days after the service of charges upon the accused.

NOTE: Inserts the correct word form for proper sentence agreement and moves
comma to correct grammar.

8 **SECTION 20.** 322.037 (1) (intro.) of the statutes, as created by 2007 Wisconsin
9 Act 200, is amended to read:

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

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

BILL

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

3 322.038 (2) (d) If the accused is represented by civilian counsel, military
4 counsel detailed or selected under par. (c) shall act as associate counsel unless
5 excused by the military judge at the request of the accused.

NOTE: Inserts missing article.

6 **SECTION 22.** 322.038 (2) (f) 2. of the statutes, as created by 2007 Wisconsin Act
7 200, is amended to read:

8 322.038 (2) (f) 2. If the accused is represented by military counsel of the
9 accused's own selection under par. (c) 2., ~~may~~ approve a request from the accused that
10 military counsel detailed under par. (c) 1. act as associate defense counsel.

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

11 **SECTION 23.** 322.040 of the statutes, as created by 2007 Wisconsin Act 200, is
12 amended to read:

13 **322.040 Article 40—Continuances.** The military judge of a court-martial
14 or a summary court-martial may, for reasonable cause, grant a continuance to any
15 party for such time, and as often, as may appear to be just.

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

16 **SECTION 24.** 322.043 (4) of the statutes, as created by 2007 Wisconsin Act 200,
17 is amended to read:

18 322.043 (4) When the United States is at war based on a congressional
19 declaration or by presidential declaration under the Global War on Terror, the
20 running of any statute of limitations is suspended until 2 years after the termination
21 of hostilities, as proclaimed by the president or by a joint resolution of congress, and

BILL

1 the suspension is applicable to any offense under this code under any of the following
2 circumstances:

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

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

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

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

14 **SECTION 25.** 322.047 (1) of the statutes, as created by 2007 Wisconsin Act 200,
15 is amended to read:

16 322.047 (1) Any person not subject to this code may be punished by the
17 military court in the same manner as a court of the state, if all of the following apply
18 to that person:

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

BILL

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

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

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

6 **SECTION 26.** 322.049 (3) (a) of the statutes, as created by 2007 Wisconsin Act
7 200, is amended to read:

8 322.049 (3) (a) The witness resides or is beyond the ~~State~~ state in which the
9 court is ordered to sit, or beyond one hundred miles from the place of trial or hearing.

NOTE: Makes capitalization and punctuation consistent with current style.

10 **SECTION 27.** 322.049 (3) (b) of the statutes, as created by 2007 Wisconsin Act
11 200, is amended to read:

12 322.049 (3) (b) The witness by reason of death, age, sickness, bodily infirmity,
13 imprisonment, military necessity, ~~non-amenability~~ nonamenability to process, or
14 other reasonable cause, is unable or refuses to appear and testify in person at the
15 place of trial or hearing.

NOTE: Corrects spelling.

16 **SECTION 28.** 322.049 (3) (c) of the statutes, as created by 2007 Wisconsin Act
17 200, is amended to read:

18 322.049 (3) (c) The present whereabouts of the witness is are unknown.

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

19 **SECTION 29.** 322.0505 (4) (intro.) of the statutes, as created by 2007 Wisconsin
20 Act 200, is amended to read:

BILL

1 322.0505 (4) (intro.) ~~Sub. Subsection~~ (3) does not apply to a court-martial
2 composed of a military judge only. In the case of a court-martial composed of a
3 military judge only or a summary court-martial officer, whenever mental disease or
4 defect of the accused with respect to an offense is properly at issue, the military judge
5 or summary court-martial officer shall find the accused ~~of~~ any one of the following:

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

6 **SECTION 30.** 322.051 (3) (a), (b), (c) and (d) of the statutes, as created by 2007
7 Wisconsin Act 200, are amended to read:

8 322.051 (3) (a) ~~The That the~~ accused shall be presumed to be innocent until his
9 or her guilt is established by legal and competent evidence beyond reasonable doubt.

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

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

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

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

17 **SECTION 31.** 322.0575 (2) (b) 1. of the statutes, as created by 2007 Wisconsin
18 Act 200, is amended to read:

19 322.0575 (2) (b) 1. While in the custody of a state, the United States, or a foreign
20 country, is temporarily returned by that state, the United States, or a foreign country
21 to the state military forces for trial by court-martial.

BILL**SECTION 31**

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

2.

1 **SECTION 32.** 322.064 (1) (a) 1., 2. and 3. of the statutes, as created by 2007
2 Wisconsin Act 200, are amended to read:

3 322.064 (1) (a) 1. ~~The~~ Whether the court had jurisdiction over the accused and
4 the offense.

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

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

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

8 **SECTION 33.** 322.0675 of the statutes, as created by 2007 Wisconsin Act 200,
9 is amended to read:

10 **322.0675 Article 67a—Review by state appellate authority.** Decisions of
11 a court-martial are from a court with jurisdiction to issue felony convictions, and
12 appeals are to the Wisconsin court of appeals, District IV and, if necessary, to the
13 Wisconsin Supreme Court. The appellate procedures to be followed shall be those
14 provided under ch. 809.

NOTE: Inserts comma to correct grammar.

15 **SECTION 34.** 322.070 (1) and (5) of the statutes, as created by 2007 Wisconsin
16 Act 200, are amended to read:

17 322.070 (1) The senior force judge advocate shall detail a judge advocate as
18 appellate ~~Government~~ government counsel to represent the state in the review or
19 appeal of cases specified in s. 322.0675 and before any federal court when requested
20 to do so by the state attorney general. Appellate government counsel shall be an

BILL

1 attorney licensed to practice in this state or a member in good standing of the bar of
2 the highest court of the state to which the appeal is taken.

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

NOTE: Makes capitalization consistent with current style.

5 **SECTION 35.** 322.075 (2) of the statutes, as created by 2007 Wisconsin Act 200,
6 is amended to read:

7 322.075 (2) If a previously executed sentence of dishonorable or bad-conduct
8 discharge is not imposed on a new trial, the governor may substitute ~~therefore~~
9 therefor a form of discharge authorized for administrative issuance unless the
10 accused is to serve out the remainder of the accused's enlistment.

NOTE: Corrects spelling.

11 **SECTION 36.** 322.083 (1) and (2) of the statutes, as created by 2007 Wisconsin
12 Act 200, are amended to read:

13 322.083 (1) Procures his or her own enlistment or appointment in the state
14 military forces by ~~knowingly~~ knowing false representation or deliberate concealment
15 as to his or her qualifications for that enlistment or appointment and receives pay
16 or allowances ~~there under~~ thereunder.

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

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

20 **SECTION 37.** 322.085 (1) (a) and (2) of the statutes, as created by 2007 Wisconsin
21 Act 200, are amended to read:

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

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

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

8 **SECTION 38.** 322.094 (1) (intro.) and (a) of the statutes, as created by 2007
9 Wisconsin Act 200, are consolidated, renumbered 322.094 (1) (a) and amended to
10 read:

11 322.094 (1) (a) Any person who ~~does any of the following shall be punished as~~
12 ~~a court-martial may direct:~~ (a) With, with intent to usurp or override lawful military
13 authority, refuses, in concert with any other person, to obey orders or otherwise do
14 his or her duty or creates any violence or disturbance is guilty of mutiny.

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

15 **SECTION 39.** 322.094 (1) (b) and (c) of the statutes, as created by 2007 Wisconsin
16 Act 200, are amended to read:

17 322.094 (1) (b) ~~With~~ Any person who, with intent to cause the overthrow or
18 destruction of lawful civil authority, creates, in concert with any other person, revolt,
19 violence, or other disturbance against that authority is guilty of sedition.

20 (c) ~~Fails~~ Any person who fails to do his or her utmost to prevent and suppress
21 a mutiny or sedition being committed in his or her presence, or fails to take all

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1 reasonable means to inform his or her superior commissioned officer or commanding
2 officer of a mutiny or sedition which he or she knows or has reason to believe is taking
3 place, is guilty of a failure to suppress or report a mutiny or sedition.

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

4 **SECTION 40.** 322.098 (intro.) (except 322.098 (title)) and (1) of the statutes, as
5 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.098 (1) and
6 amended to read:

7 322.098 (1) Any person who ~~does any of the following shall be punished as a~~
8 ~~court-martial may direct: (1) Is~~ is responsible for unnecessary delay in the
9 disposition of any case of a person accused of an offense under this code shall be
10 punished as a court-martial may direct.

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, eliminates a grammatical conflict between s. 322.098 (intro.) and s. 322.098 (1) by combining the 2 provisions. See the next section of this bill.

11 **SECTION 41.** 322.098 (2) of the statutes, as created by 2007 Wisconsin Act 200,
12 is amended to read:

13 322.098 (2) ~~Knowingly~~ Any person who knowingly and intentionally fails to
14 enforce or comply with any provision of this code regulating the proceedings before,
15 during, or after trial of an accused shall be punished as a court-martial may direct.

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

16 **SECTION 42.** 322.109 of the statutes, as created by 2007 Wisconsin Act 200, is
17 amended to read:

18 **322.109 Article 109—Property other than military property — Waste,**
19 **spoilage, or destruction.** Any person who willfully or recklessly wastes, spoils, or

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1 otherwise willfully and wrongfully destroys or damages any property other than
2 military property of the United States, the State state, or of any state, shall be
3 punished as a court-martial may direct.

NOTE: Makes capitalization consistent with current style.

4 **SECTION 43.** 322.1125 (1) of the statutes, as created by 2007 Wisconsin Act 200,
5 is renumbered 322.1125.

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

6 **SECTION 44.** 322.114 of the statutes, as created by 2007 Wisconsin Act 200, is
7 amended to read:

8 **322.114 Article 114—Dueling.** Any person who fights or promotes, or is
9 concerned in or connives at fighting a duel, or who, having knowledge of a challenge
10 sent or about to be sent, fails to report the fact promptly to the proper authority, shall
11 be punished as a court-martial may direct.

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

12 **SECTION 45.** 322.121 (intro.) (except 322.121 (title)) and (1) of the statutes, as
13 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.121 (1) and
14 amended to read:

15 322.121 (1) Any person who wrongfully takes, obtains, or withholds, by any
16 means, from the possession of the owner or of any other person any money, personal
17 property, or ~~section~~ article of value of any kind ~~if any of the following apply shall be~~
18 ~~punished as a court-martial may direct: (1) With~~ with intent permanently to
19 deprive or defraud another person of the use and benefit of property or to appropriate
20 it to his or her own use or the use of any person other than the owner, steals that

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1 property ~~and~~, is guilty of larceny, and shall be punished as a court-martial may
2 direct.

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

3 **SECTION 46.** 322.121 (2) of the statutes, as created by 2007 Wisconsin Act 200,
4 is amended to read:

5 322.121 (2) With Any person who wrongfully takes, obtains, or withholds, by
6 any means, from the possession of the owner or of any other person any money,
7 personal property, or article of value of any kind with intent temporarily to deprive
8 or defraud another person of the use and benefit of property or to appropriate it to
9 his or her own use or the use of any person other than the owner, is guilty of wrongful
10 appropriation and shall be punished as a court-martial may direct.

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

11 **SECTION 47.** 322.123 (intro.) and (2) of the statutes, as created by 2007
12 Wisconsin Act 200, are amended to read:

13 **322.123 Article 123—Forgery.** (intro.) Any person who, with intent to
14 defraud ~~who~~, does any of the following is guilty of forgery and shall be punished as
15 a court-martial may direct:

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

NOTE: Consistent with the underlying draft contained in the Legislative Council committee file, moves text from s. 322.123 (2) to s. 322.123 (intro.) to correct sentence structure so that the moved language applies to both s. 322.123 (1) and (2). Deletes unnecessary "who" and adds necessary comma.

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SECTION 48. 322.1235 (intro.) (except 322.1235 (title)), (1) and (2) of the statutes, as created by 2007 Wisconsin Act 200, are ^{consolidated} renumbered 322.1235 (1) (intro.),

(a) and (b) and amended to read:

322.1235 (1) (intro.) Any person who does ~~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~~ ^{for} any of the following purposes shall be

punished as a court-martial may direct. No ft

(A) ~~Procures~~ ^{for} For the procurement of any section article or thing of value, with intent to defraud. No ft

(B) ~~Pays~~ ^{for} 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.

Plain

(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.

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NOTE: The Legislative Council committee file shows that the ~~language in~~ ^{clause in} s. 322.1235 (1) (b) ~~was renumbered, and language of 322.1235 (1) intro. was renumbered~~, was improperly placed within the provision, as that language is applicable to the offenses enumerated in both s. 322.1235 (1) ~~and~~ ~~and~~. The Legislative Council committee file also shows that "article" was inadvertently replaced by "section" during the drafting process. The language renumbered as s. 322.1235 (2) is moved into a separate subsection, as it is not a part of the offense enumerated in s. 322.1235 (1) (b), as renumbered.

1 **SECTION 49.** 322.126 (intro.) (except 322.126 (title)) and (1) of the statutes, as
2 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.126 (1) and
3 amended to read:

4 322.126 (1) Any person who ~~does any of the following shall be punished as a~~
5 ~~court-martial may direct:~~ (1) Willfully willfully and maliciously burns or sets on fire
6 an inhabited dwelling, or any other structure, movable or immovable, in which the
7 offender knows there is at the time a human being, is guilty of aggravated arson and
8 shall be punished as a court-martial may direct.

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

9 **SECTION 50.** 322.126 (2) of the statutes, as created by 2007 Wisconsin Act 200,
10 is amended to read:

11 322.126 (2) ~~Willfully~~ Any person who willfully and maliciously burns or sets
12 fire to the property of another, except as provided in sub. (1), is guilty of simple arson
13 and shall be punished as a court-martial may direct.

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

14 **SECTION 51.** 322.128 (intro.) (except 322.128 (title)) and (1) of the statutes, as
15 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.128 (1) and
16 amended to read:

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1 **SECTION 49.** 322.126 (intro.) (except 322.126 (title)) and (1) of the statutes, as
2 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.126 (1) and
3 amended to read:

4 322.126 (1) Any person who ~~does any of the following shall be punished as a~~
5 ~~court-martial may direct: (1) Willfully~~ willfully and maliciously burns or sets on fire
6 an inhabited dwelling, or any other structure, movable or immovable, in which the
7 offender knows there is at the time a human being, is guilty of aggravated arson and
8 shall be punished as a court-martial may direct.

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

9 **SECTION 50.** 322.126 (2) of the statutes, as created by 2007 Wisconsin Act 200,
10 is amended to read:

11 322.126 (2) ~~Willfully~~ Any person who willfully and maliciously burns or sets
12 fire to the property of another, except as provided in sub. (1), is guilty of simple arson
13 and shall be punished as a court-martial may direct.

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

14 **SECTION 51.** 322.128 (intro.) (except 322.128 (title)) and (1) of the statutes, as
15 created by 2007 Wisconsin Act 200, are consolidated, renumbered 322.128 (1) and
16 amended to read:

17 322.128 (1) Any person who ~~does any of the following shall be punished as a~~
18 ~~court-martial may direct: (1) Attempts~~ attempts or offers with unlawful force or
19 violence to do bodily harm to another person, whether or not the attempt or offer is

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1 consummated, is guilty of assault and shall be punished as a court-martial may
2 direct.

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

3 **SECTION 52.** 322.128 (2) and (3) of the statutes, as created by 2007 Wisconsin
4 Act 200, are amended to read:

5 322.128 (2) ~~Commits~~ Any person who commits an assault with a dangerous
6 weapon or other means or force likely to produce death or grievous bodily harm is
7 guilty of aggravated assault and shall be punished as a court-martial may direct.

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

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

11 **SECTION 53.** 322.132 (1) (intro.) and (2) (intro.) of the statutes, as created by
12 2007 Wisconsin Act 200, are amended to read:

13 322.132 (1) (intro.) For the purpose of obtaining the approval, allowance, or
14 payment of any claim against the United States, the state, ~~or of any state,~~ or any
15 officer:

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

NOTE: Deletes unnecessary language.

18 **SECTION 54.** 322.135 (1) of the statutes, as created by 2007 Wisconsin Act 200,
19 is amended to read:

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

NOTE: Inserts "have" to correct grammar.

4 **SECTION 55.** 322.137 of the statutes, as created by 2007 Wisconsin Act 200, is
5 amended to read:

6 **322.137 Article 137—Articles to be available.** ~~The~~ This code and the
7 manual for courts-martial shall be made available to a member of the state military
8 forces, upon request by the member, for the member's personal examination.

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

9 **SECTION 56.** 322.143 of the statutes, as created by 2007 Wisconsin Act 200, is
10 amended to read:

11 **322.143 Article 143—Uniformity of interpretation.** This code shall be so
12 construed as to effectuate its general purpose to make it uniform, so far as practical,
13 with ~~the~~ 10 USC ch. 47.

NOTE: Deletes unnecessary word.

14 **SECTION 57.** 2007 Wisconsin Act 200, section 2 is amended by replacing
15 "Wisconsin national guard or state defense force;" with "Wisconsin national guard
16 or state defense force;".

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

17 **SECTION 58.** 2007 Wisconsin Act 200, section 122 is amended by replacing
18 "~~accoutrements moneys, or stores that~~" with "~~accoutrements, moneys, or stores,~~
19 ~~that~~".

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