



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2013 LRB-0979/1 (For: Military Affairs)

has been copied/added to the drafting file for

2013 LRB-3430 (For: Military Affairs)

Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 10/14/2013 (Per: MPG)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received: **1/3/2013** Received By: **mgallagh**
Wanted: **As time permits** Same as LRB: **-1920**
For: **Military Affairs 608-242-3026** By/Representing: **Col. Barron**
May Contact: Drafter: **rnelson**
Subject: **Military Affairs - misc** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Ryan.Murray@wisconsin.gov**
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changes to Wisconsin code of military justice

Instructions:

Jacket for the Assembly for governor's office: notify Patrick Hughes in that office

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson 2/7/2013			_____			
/P1	rnelson 3/4/2013	scalvin 2/20/2013	phenry 2/21/2013	_____	srose 2/21/2013		
/P2	rnelson 3/14/2013	scalvin 3/6/2013	jfrantze 3/6/2013	_____	lparisi 3/6/2013		
/1		scalvin	rschluet	_____	sbasford	mbarman	Crime

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		3/15/2013	3/15/2013	_____	3/15/2013	3/18/2013	

FE Sent For:

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Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

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Instructions:

See attached

*See PL 112-81, passed 12/31/11
and effective 180 days after that
date. Also see 10 USC, ss 920-920c*

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03/15/2013*

3/5/13

LRB-0979

3/6/2013 3:21:10 PM

Page 2

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/P1	rnelson 2/12/2013	scalvin 2/20/2013	phenry 2/21/2013		srose 2/21/2013		
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		1/2 again SAC 03/06/2013		3/6			

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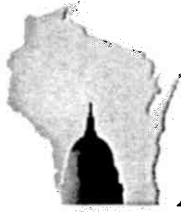
Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
1/?	mgallagh RPN		2/21 - Conker				
FE Sent For:		PI sec 02/19/2013	2/21 ph	ph/jff			

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT WALKER
GOVERNOR
MIKE HUEBSCH
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842
TTY (608) 267-9629

Date: September 7, 2012

To: Brian Hayes
State Budget Director

From: Michelle Gauger
Executive Policy and Budget Manager

Subject: Request for Revisions to the Wisconsin Code of Military Justice from the Department of Military Affairs

Background

The Wisconsin Code of Military Justice that governs the conduct of all National Guard members while in a Title 32 U.S.C. (state active duty status) was established in 1969 and substantially amended in 2008 under 2007 Wisconsin Act 200. Under the code, a violation that is also a nonmilitary offense will first fall under the jurisdiction of civilian authorities. A court-martial may only be initiated if civilian authorities decline to prosecute or dismiss charges.

Following a series of high-profile and potentially widespread sexual assaults of service members in the U.S. armed forces, the Department of Defense has taken action to change policies and regulations relating to the identification and prosecution of alleged sexual assaults. Article 120 of the U.S. Uniform Code of Military Justice, which deals with sexual assaults by service members, was substantially amended in December 2011. In addition, in April 2012, the Secretary of Defense Leon Panetta announced that sexual assault could only be handled by high-ranking officers and would be supervised by a new Special Victims Unit.

Request

The department proposes changing the state Code of Military Justice to be consistent with changes to the federal Uniform Code of Military Justice related to sexual assault. In addition, the department recommends making changes to be consistent with current practices and to allow qualified military judges from the U.S. armed forces or from other states to serve in Wisconsin.

Fiscal Impact

This change has no known fiscal impact.

Brian Hayes
September 7, 2012

Wis. Stat. § 322.001(23)

(23) "State military forces" means the Wisconsin army and air national guard, the national guard, as defined in 32 USC 502, 503, or 904, the state defense force, the organized naval militia of the state, and any other military force organized under the Constitution and laws of the state, and does not include the unorganized militia, state guard, or home guard. The state military forces do not include the national guard when under when not in a status subjecting them to exclusive jurisdiction under 10 USC ch. 47. ?

Wis. Stat. § 322.016

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

- (1) General courts-martial, consisting of any of the following:
 - (a) A military judge and not less than 5 members.
 - (b) Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves.
- (2) Special courts-martial, consisting of any of the following:
 - (a) A military judge and not less than 3 members. An accused may waive having 12 members and proceed to a special court-martial with not less than 6 members.
 - (b) Only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in sub. (1) (b) so requests.
- (3) Summary courts-martial, consisting of one commissioned officer.

Wis. Stat. § 322.026(2)(a)

- (2) A military judge shall meet all of the following qualifications:
 - (a) Be a commissioned officer of the armed forces of the U.S. or a component thereof or a commissioned officer of an organized state military force.
 - (b) Be an attorney licensed to practice in this state or be a member of the bar of a federal court for at least 5 years.
 - (c) Be certified as qualified for duty as a military judge by the senior force judge advocate of the same force as the accused.

Wis. Stat. § 322.139(1)

Redress of injuries to property.

(1) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the state military forces, ^{may} ~~that person~~ the commanding officer may, under the regulations prescribed, ~~convene a board to investigate the complaint. The board shall consist of from one to 3 commissioned officers and, for the purpose of that investigation, it has the power to~~ summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the ~~board~~ investigator is subject to the approval of the commanding officer, and in the amount approved by that officer shall be charged against the pay of the offender(s). The order of the commanding officer directing charges herein authorized is

Brian Hayes
September 7, 2012

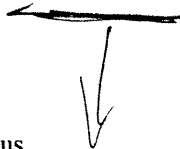
161 -

conclusive on any disbursing officer for payment to the injured parties of the damages so assessed and approved.

Wis. Stat. 322.120 Article 120 Rape and carnal knowledge

- ~~(1) Any person who commits an act of sexual intercourse, by force and without consent, is guilty of rape and shall be punished as a court martial may direct.~~
- ~~(2) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person who is not that person's spouse, and who has not attained the age of 16 years; is guilty of carnal knowledge and shall be punished as a court martial may direct.~~
- ~~(3) Penetration, however slight, is sufficient to complete either of these offenses.~~
- ~~(4) In a prosecution under sub. (2), it is an affirmative defense if all of the following conditions are established:
 - ~~(a) The person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of 12 years.~~
 - ~~(b) The accused reasonably believed that the person had at the time of the alleged offense attained the age of 16 years.~~~~
- ~~(5) The accused has the burden of proving a defense under sub. (4) by a preponderance of the evidence.~~

Wis. Stat. 322.120, Article 120 Rape and Sexual Assault Generally

- (a) Rape.- Any person subject to this chapter who commits a sexual act upon another person by- 
- (1) using unlawful force against that other person;
 - (2) using force causing or likely to cause death or grievous bodily harm to any person;
 - (3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;
 - (4) first rendering that other person unconscious; or
 - (5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; is guilty of rape and shall be punished as a court-martial may direct.
- (b) Sexual Assault.-Any person subject to this chapter who
- 1) commits a sexual act upon another person by
 - (A) threatening or placing that other person in fear;
 - (B) causing bodily harm to that other person;
 - (C) making a fraudulent representation that the sexual act serves a professional purpose; or
 - (D) inducing a belief by any artifice, pretense, or concealment that the person is another person;
 - (2) commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or
 - (3) commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to-
 - (A) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or
 - (B) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person; is guilty of sexual assault and shall be punished as a court-martial may direct.

Brian Hayes
September 7, 2012

(c) Aggravated Sexual Contact.- Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(d) Abusive Sexual Contact.- Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (b) (sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

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

(f) Defenses.- An accused may raise any applicable defenses available under this chapter or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in any prosecution under this section.

(g) Definitions.- In this section:

(e) (1) Sexual act.- The term "sexual act" means-
(A) contact between the penis and the vulva or anus or mouth, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or
(B) the penetration, however slight, of the vulva or anus or mouth, of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) (2) Sexual contact.- The term "sexual contact" means-
(A) touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or
(B) any touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body.

(a) (3) Bodily harm.- The term "bodily harm" means any offensive touching of another, however slight including any nonconsensual sexual act or nonconsensual sexual contact

(d) (4) Grievous bodily harm.- The term "grievous bodily harm" means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

(c) (5) Force.- The term "force" means-
(A) the use of a weapon;
(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person;
or
(C) inflicting physical harm sufficient to coerce or compel submission by the victim.

(h) (6) Unlawful force.- The term "unlawful force" means an act of force done without legal justification or excuse.

(j) (7) Threatening or placing that other person in fear.- The term "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action.

(8) Consent.

Brian Hayes
September 7, 2012

(b) (A) The term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.

(B) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph (G) or (I) of subsection (b)(1).

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

Wis. Stat. 322.120A, Article 120A Stalking

why this before 120B?

(a) Any person subject to this section-

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

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

(3) whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family; is guilty of stalking and shall be punished as a court-martial may direct.

(b) In this section:

(1) The term "course of conduct" means-

(A) a repeated maintenance of visual or physical proximity to a specific person; or

(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

(2) The term "repeated", with respect to conduct, means two or more occasions of such conduct.

(3) The term "immediate family", in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member, relative, or intimate partner of the person who regularly resides in the household of the person or who within the six months preceding the commencement of the course of conduct regularly resided in the household of the person.

Wis. Stat. 322.120B, Article 120B Rape and Sexual Assault of a Child

(a) Rape of a Child.- Any person subject to this chapter who-

(1) commits a sexual act upon a child who has not attained the age of 12 years; or

(2) commits a sexual act upon a child who has attained the age of 12 years by

(A) using force against any person;

(B) threatening or placing that child in fear;

(C) rendering that child unconscious; or

(D) administering to that child a drug, intoxicant, or other similar substance; is guilty of rape of a child and shall be punished as a court-martial may direct.

Brian Hayes
September 7, 2012

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

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

(d) Age of Child.-

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

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

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

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

(g) Definitions.- In this section:

(d) (1) Sexual act and sexual contact.- The terms "sexual act" and "sexual contact" have the meanings given those terms in Article 120.

(b) (2) Force.- The term "force" means-

(A) the use of a weapon;

(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a child; or

(C) inflicting physical harm. In the case of a parent-child or similar relationship, the use or abuse of parental or similar authority is sufficient to constitute the use of force.

(e) (3) Threatening or placing that child in fear.- The term "threatening or placing that child in fear" means a communication or action that is of sufficient consequence to cause the child to fear that non-compliance will result in the child or another person being subjected to the action contemplated by the communication or action.

(a) (4) Child.- The term "child" means any person who has not attained the age of 16 years.

(c) (5) Lewd act.- The term "lewd act" means

(A) any sexual contact with a child;

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

(C) intentionally communicating indecent language to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

Brian Hayes
September 7, 2012

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

Wis. Stat. 322.120C, Article 120C Other Sexual Misconduct

(a) Indecent Viewing, Visual Recording, or Broadcasting.- Any person subject to this chapter who, without legal justification or lawful authorization

- (1) knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;
- (2) knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy; or
- (3) knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs (1) and (2); is guilty of an offense under this section and shall be punished as a court-martial may direct.

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

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

(d) Definitions.- In this section:

- ✓ (1) Act of prostitution.- The term "act of prostitution" means a sexual act or sexual contact on account of which anything of value is given to, or received by, any person,
- ✓ (2) Private area.- The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple,
- ✓ (3) Reasonable expectation of privacy.- The term "under circumstances in which that other person has a reasonable expectation of privacy" means-
 - (A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured; or
 - (B) circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public,
- ✓ (4) Broadcast.- The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons,
- ✓ (5) Distribute.- The term "distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means,
- ✓ (6) Indecent manner.- The term "indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

Gallagher, Michael

From: Barron, Julio R COL USAF NG WIARNG (US) <julio.r.barron2.mil@mail.mil>
Sent: Thursday, January 03, 2013 10:53 AM
To: Gallagher, Michael
Subject: DMA Legislative Agenda (UNCLASSIFIED)
Attachments: DMA Leg Agenda - Travel Allowance.doc; DMA Leg Agenda - Military Financial Aid.doc; DMA Leg Agenda - DAG.doc; DMA Leg Agenda - Code of Military Justice.doc; DMA Leg Agenda - Voting.doc

Classification: UNCLASSIFIED
Caveats: NONE

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Good morning Mike. As a follow up to our discussion this a.m., attached please find DMA's legislative initiatives for the upcoming session. These proposals have been vetted through the Governor's office and DOA. Please feel free to contact me should you have any questions or concerns.
Thank you.

Julio

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Classification: UNCLASSIFIED
Caveats: NONE

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Caveats: NONE



5001 2/12
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0979/P1

RPN: [signature]

SAC

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Please change request sheet as marked.

gen act
1 **AN ACT** ...; relating to: stalking and sexual offenses under the code of military
2 justice.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 SECTION 1. 322.001^x (15) of the statutes is amended to read:
4 322.001 (15) "Military offenses" means those offenses prescribed under articles
5 77, principals; 78, accessory after the fact; 80, attempts; 81, conspiracy; 82,
6 solicitation; 83, fraudulent enlistment, appointment, or separation; 84, unlawful
7 enlistment, appointment, or separation; 85, desertion; 86, absence without leave; 87,
8 missing movement; 88, contempt toward officials; 89, disrespect towards superior
9 commissioned officer; 90, assaulting or willfully disobeying superior commissioned

1 officer; 91, insubordinate conduct toward warrant officer, noncommissioned officer,
2 or petty officer; 92, failure to obey order or regulation; 93, cruelty and maltreatment;
3 94, mutiny or sedition; 95, resistance, flight, breach of arrest, and escape; 96,
4 releasing prisoner without proper authority; 97, unlawful detention; 98,
5 noncompliance with procedural rules; 99, misbehavior before the enemy; 100,
6 subordinate compelling surrender; 101, improper use of countersign; 102, forcing a
7 safeguard; 103, captured or abandoned property; 104, aiding the enemy; 105,
8 misconduct as prisoner; 107, false official statements; 108, military property — loss,
9 damage, destruction, or wrongful disposition; 109, property other than military
10 property — waste, spoilage, or destruction; 110, improper hazarding of vessel; 111,
11 drunken or reckless operation of a vehicle, aircraft, or vessel; 112, drunk on duty;
12 112a, wrongful use, or possession of controlled substances; 113, misbehavior of
13 sentinel; 114, dueling; 115, malingering; 116, riot or breach of peace; 117, provoking
14 speeches or gestures; ~~120, rape or carnal knowledge; 120b, rape and sexual assault;~~
15 ~~120c, rape and sexual assault of a child; 120d, sexual misconduct; 120e, stalking;~~
16 121, larceny and wrongful appropriation; 122, robbery; 123, forgery; 124, maiming;
17 126, arson; 127, extortion; 128, assault; 129, burglary; 130, housebreaking; 131,
18 perjury; 132, frauds against the government; 133, conduct unbecoming an officer and
19 a gentleman; and 134, general; of this code.

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

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SECTION 2. 322.001 (23) of the statutes is amended to read:

21 322.001 (23) "State military forces" means the Wisconsin army and air national
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23 force, the organized naval militia of the state, and any other military force organized
24 under the Constitution and laws of the state, and but does not include the

1 unorganized militia, state guard, or home guard, ~~when not in or the national guard~~
2 when under a status subjecting them to exclusive jurisdiction under 10 USC ch. 47.

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SECTION 5. 322.120 of the statutes is repealed.

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SECTION 6. 322.1201 of the statutes is created to read:

12 **322.1201 Article 120a - Definitions.** In sections 322.1201 to 322.1205:
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13 (1) "Act of prostitution" means a sexual act or sexual contact on account of
14 which anything of value is given to, or received by, any person.

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

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

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

20 (5) (a) "Consent" means a freely given agreement to the conduct at issue by a
21 competent person.

22 (b) An expression of lack of consent through words or conduct means there is
23 ^{Submission of oral} no consent, ~~Lack of~~ verbal or physical resistance or submission resulting from the use
24 of force, threat of force, or placing another person in fear, does not constitute consent.

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2 of dress of the person involved with the accused in the conduct at issue shall not
3 constitute consent. A sleeping, unconscious, or incompetent person cannot consent.
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*LPS:
capital
instead of
zero.*

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

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

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

14

(b) A repeated conveyance of ^{verbal} threat, written threats, or threats implied

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by conduct, or a combination of such threats, directed at or toward a specific person.

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(7) "Distribute" means delivering to the actual or constructive possession of

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another, including transmission by electronic means.

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

19

(a) The use of a weapon.

20

(b) The use of such physical strength or violence as is sufficient to overcome,

21

restrain, or injure a person.

that is likely

22

(c) Inflicting physical harm sufficient to coerce or compel submission by the

23

victim.

1 (c) In the case of a child victim, inflicting physical harm.

2 (d) In the case of a parent-child or similar relationship, the use or abuse of
3 parental or similar authority is sufficient to constitute the use of force.

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

8 (10) "Immediate family" in the case of a specific person, means a spouse,
9 parent, son, daughter, or sibling of the person, or any other family member, relative,
10 or intimate partner of the person who regularly resides in the household of the person
11 or who within the six months preceding the commencement of a course of conduct
12 regularly resided in the household of the person.

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

17 (12) "Lewd act" means any of the following:

18 (a) Any sexual contact with a child.

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

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

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

6 (13) "Private area" means the naked or underwear-clad genitalia, anus,
7 buttocks, or female areola or nipple.

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

10 (15) "Sexual act" means any of the following:

11 (a) Contact between the penis and the vulva or anus or mouth, and for purposes
12 of this subparagraph contact involving the penis occurs upon penetration, however
13 slight.

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

17 (16) "Sexual contact" means any of the following:

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

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

1 (17) "Threatening or placing that other person in fear" means a communication
2 or action that is of sufficient consequence to cause a reasonable fear that
3 non-compliance will result in the victim or another person being subjected to the
4 wrongful action contemplated by the communication or action.

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

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

10 (b) Circumstances in which a reasonable person would believe that a private
11 area of the person would not be visible to the public.

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

14 SECTION 7. 322.1202^x of the statutes is created to read:

15 **322.1202 Article 120b [↑]Rape and sexual assault generally.**

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

19 (a) Using unlawful force against that other person;

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

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

24 (d) Rendering that other person unconscious.

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

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

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

9 1. Threatening or placing that other person in fear.

10 2. Causing bodily harm to that other person.

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

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

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

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

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

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

24 (3) Any person subject to this chapter who commits or causes sexual contact
25 upon or by another person, if to do so would violate sub. (1) had the sexual contact

1 been a sexual act is guilty of aggravated sexual contact and shall be punished as a
2 court-martial may direct.

3 (4) Abusive Sexual Contact. Any person subject to this chapter who commits
4 or causes sexual contact upon or by another person, if to do so would violate
5 subsection (2) had the sexual contact been a sexual act, is guilty of abusive sexual
6 contact and shall be punished as a court-martial may direct.

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

10 (6) An accused may raise any applicable defenses available under this chapter
11 or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in
12 any prosecution under this section.

* ? ****NOTE: What are the "Rules for Court-Martial" that are different from "this
chapter"? Are there state administrative rules that can be cited here?

13 SECTION 8. 322.1203 of the statutes is created to read:

14 **322.1203 Article 120c - Rape and sexual assault of a child.**

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

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

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

- 20 1. Using force against any person.
- 21 2. Threatening or placing that child in fear.
- 22 3. Rendering that child unconscious.
- 23 4. Administering to that child a drug, intoxicant, or other similar substance.

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

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

6 (4) In a prosecution under this section, it need not be proven that the accused
7 knew the age of the other person engaging in the sexual act or lewd act. It is not a
8 defense that the accused reasonably believed that the child had attained the age of
9 12 years.

10 (5) In a prosecution under this section, it need not be proven that the accused
11 knew that the other person engaging in the sexual act or lewd act had not attained
12 the age of 16 years, but it is a defense in a prosecution under subs. (2) or (3), which
13 the accused must prove by a preponderance of the evidence, that the accused
14 reasonably believed that the child had attained the age of 16 years, if the child had
15 in fact attained at least the age of 12 years.

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

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

23 SECTION 9. 322.1204^x of the statutes is created to read:

24 322.1204^g, Article 120d - Other sexual misconduct^h

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

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

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

10 (c) Knowingly broadcasts or distributes any such recording that the person
11 knew or reasonably should have known was made under the circumstances
12 proscribed in paragraphs (1) and (2) is guilty of an offense under this section and
13 shall be punished as a court-martial may direct.

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

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

20 SECTION 10. 322.1205^x of the statutes is created to read:

21 **322.1205 Article 120e - Stalking.** Any person subject to this chapter who
22 does all of the following is guilty of stalking and shall be punished as a court-martial
23 may direct:

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

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

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

10 SECTION 11. 322.129 of the statutes is amended to read:

LPS: replace m-dash with hyphen to match existing statute

11 322.129 Article 129 Burglary. Any person who, with intent to commit an
12 offense punishable under ss. 322.120 322.1202 to 322.128, breaks and enters, in the
13 nighttime, the dwelling house of another, is guilty of burglary and shall be punished
14 as a court-martial may direct.

History: 2007 a. 200.

15 SECTION 12. 322.139 (1) of the statutes is amended to read:

16 322.139 (1) Whenever complaint is made to any commanding officer that
17 willful damage has been done to the property of any person or that the person's
18 property has been wrongfully taken by ~~members~~ a member of the state military forces, that
19 ~~person~~ the commanding officer may, under the regulations prescribed, convene a
20 board to investigate the complaint. The board shall consist of from one to 3
21 commissioned officers and, for the purpose of that investigation, it has power to
22 commanding officer may summon witnesses and examine them upon oath, to receive
23 depositions or other documentary evidence, and to assess the damages sustained
24 against the responsible parties. The assessment of damages made by the board is

party

assessed

- ① ~~subject to the approval of the commanding officer, and in the amount approved by~~
- ② ~~that officer shall be charged against the pay of the offenders.~~ *offender* The order of the
- ③ commanding officer directing charges ~~herein authorized~~ is conclusive on any
- ④ disbursing officer for payment to the injured ~~parties~~ *party* of the damages so assessed ~~and~~
- ⑤ ~~approved.~~

History: 2007 a. 200.

6

(END)

LPS?
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20 13

Insert IA

Nonstat File Sequence: **EEE**

LRB - 09 09 1 P1

RPN: : JC

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # 93 . Initial applicability;

(#1) ()

The treatment of sections ...

of the statutes

first applies to

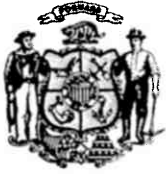
- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # 93 . Initial applicability; Military

Affairs

(#1) () This act first

applies to offenses committed on
the effective date of this subsection.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0979/P1
RPN:sac:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 322.120; **to amend** 322.001 (15), 322.001 (23), 322.016 (2) (a),
2 322.026 (2) (a), 322.129 and 322.139 (1); and **to create** 322.1201, 322.1202,
3 322.1203, 322.1204 and 322.1205 of the statutes; **relating to:** stalking and
4 sexual offenses under the code of military justice.

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

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

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22 competent person.

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25 of force, threat of force, or placing another person in fear, does not constitute consent.

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15 conduct, or a combination of such threats, directed at or toward a specific person.

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17 another, including transmission by electronic means.

18 (8) "Force" means any of the following:

19 (a) The use of a weapon.

20 (b) The use of physical strength or violence that is likely to overcome, restrain,
21 or injure a person.

22 (c) Inflicting physical harm that is likely to coerce or compel submission by the
23 victim.

1 (d) In the case of a child victim, inflicting physical harm.

2 (e) In the case of a parent-child or similar relationship, the abuse of parental
3 or similar authority.

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

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

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

17 (12) "Lewd act" means any of the following:

18 (a) Any sexual contact with a child.

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

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

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

6 (13) "Private area" means the naked or underwear-clad genitalia, anus,
7 buttocks, or female areola or nipple.

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

10 (15) "Sexual act" means any of the following:

11 (a) Contact between the penis and the vulva or anus or mouth, and for purposes
12 of this subparagraph contact involving the penis occurs upon penetration, however
13 slight.

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

17 (16) "Sexual contact" means any of the following:

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

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

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

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

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

9 1. Threatening or placing that other person in fear.

10 2. Causing bodily harm to that other person.

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

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

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

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

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

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

24 (3) Any person subject to this chapter who commits or causes sexual contact
25 upon or by another person, if to do so would violate sub. (1) had the sexual contact

1 been a sexual act is guilty of aggravated sexual contact and shall be punished as a
2 court-martial may direct.

3 (4) Any person subject to this chapter who commits or causes sexual contact
4 upon or by another person, if to do so would violate subsection (2) had the sexual
5 contact been a sexual act, is guilty of abusive sexual contact and shall be punished
6 as a court-martial may direct.

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

10 (6) An accused may raise any applicable defenses available under this chapter
11 or the ~~Rules for Court-Martial~~. Marriage is not a defense for any conduct in issue
12 in any prosecution under this section.

58
322.046
****NOTE: What are the "Rules for Court-Martial" that are different from "this
chapter"? Are there state administrative rules that can be cited here? X

13 SECTION 8. 322.1203 of the statutes is created to read:

14 **322.1203 Article 120c - Rape and sexual assault of a child.**

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

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

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

20 1. Using force against any person.

21 2. Threatening or placing that child in fear.

22 3. Rendering that child unconscious.

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

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

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

6 (4) In a prosecution under this section, it need not be proven that the accused
7 knew the age of the other person engaging in the sexual act or lewd act. It is not a
8 defense that the accused reasonably believed that the child had attained the age of
9 12 years.

10 (5) In a prosecution under this section, it need not be proven that the accused
11 knew that the other person engaging in the sexual act or lewd act had not attained
12 the age of 16 years, but it is a defense in a prosecution under subs. (2) or (3), which
13 the accused must prove by a preponderance of the evidence, that the accused
14 reasonably believed that the child had attained the age of 16 years, if the child had
15 in fact attained at least the age of 12 years.

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

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

22 **SECTION 9.** 322.1204 of the statutes is created to read:

23 **322.1204 Article 120^cd - Other sexual misconduct.**

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

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

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

10 (c) Knowingly broadcasts or distributes any such recording that the person
11 knew or reasonably should have known was made under the circumstances
12 proscribed in paragraphs (1) and (2).

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

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

19 SECTION 10. 322.1205² of the statutes is created to read:

20 **322.1205 Article 120e - Stalking**⁶ Any person subject to this chapter who
21 does all of the following is guilty of stalking and shall be punished as a court-martial
22 may direct: ^{(2) (b)}

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

(1) In this section:
→

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

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

7 SECTION 11. 322.129 of the statutes is amended to read:

8 **322.129 Article 129 - Burglary.** Any person who, with intent to commit an
9 offense punishable under ss. ~~322.120~~ 322.1202 to 322.128, breaks and enters, in the
10 nighttime, the dwelling house of another, is guilty of burglary and shall be punished
11 as a court-martial may direct.

12 SECTION 12. 322.139 (1) of the statutes is amended to read:

13 322.139 (1) Whenever complaint is made to any commanding officer that
14 willful damage has been done to the property of any person or that the person's
15 property has been wrongfully taken by ~~members~~ a member of the state military
16 ~~forces, that person~~ ^{force,} the commanding officer may, under the regulations prescribed,
17 ~~convene a board to investigate the complaint. The board shall consist of from one to~~
18 ~~3 commissioned officers and, for the purpose of that investigation, it has power to~~
19 commanding officer may summon witnesses and examine them upon oath, to receive
20 depositions or other documentary evidence, and to assess the damages sustained
21 against the responsible ~~parties~~ party. The assessment of damages made by the board
22 is subject to the approval of the commanding officer and in the ^{investigator} amount approved
23 assessed by that officer shall be charged against the pay of the ~~offenders~~ offender.
24 The order of the commanding officer directing charges herein authorized is