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# TONY KURTZ

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STATE REPRESENTATIVE • 50<sup>th</sup> ASSEMBLY DISTRICT

Testimony before the Assembly Committee on Veteran and Military Affairs

Assembly Bills 177, 178 and 179

Good morning Chairman Edming and committee members. Thank you for having this hearing today on Assembly Bills 177, 178 and 179.

Last summer, I was selected to be the chair of the Joint Legislative Council Study Committee on Wisconsin National Guard Sexual Misconduct Procedures. Assembly Bills 177, 178 and 179 are the product of the study committee's work.

As most of you are aware, the federal National Guard Bureau completed an assessment of the Wisconsin National Guard in 2019 that identified a number of concerns with how the Wisconsin National Guard had handled allegations of sexual assault and sexual harassment. While the Wisconsin National Guard, under Adjutant General Paul Knapp's leadership, has been diligently working to implement the recommendations contained in that assessment, the study committee identified a number of areas in which legislation will complement the Guard's continuing efforts to ensure that the men and women who volunteer to serve our state and nation are able to do so in an environment that takes their safety seriously.

Between August and December, the Study Committee met five times in Madison. During those meetings, the committee heard from Major General Charles Walker, Director, Office of Complex Investigations (OCI), National Guard Bureau who provided an overview of the OCI and of best practices that states have used for addressing sexual assault in the National Guard. The committee also heard from Major General Paul Knapp, Adjutant General, Wisconsin National Guard as well as WING's Sexual Assault Response Coordinator and Staff Judge Advocates. Several meetings included lengthy discussion regarding outdated policy items and new reporting requirements.

The committee's work benefited from the experience and expertise of its members, many of whom were current or former service members. The committee also benefited from the technical expertise of the Department of Military Affairs, which the committee consulted throughout its work.

In December, the study committee unanimously voted to recommend to the Joint Legislative Council three bills to update the rules, regulations and reporting for WING. Joint Legislative Council also voted unanimously to introduce the bills.

Assembly Bill 177 makes a variety of changes to the Wisconsin Code of Military Justice. Some of the changes are fairly technical, but others include important substantive updates based on recent changes to the federal uniform code of military justice. For example, the bill draft creates new punitive articles within the state code to parallel articles added to the federal code, including an article addressing sexual harassment. And it modifies the state code's article relating to sexual assault to align that offense with the same provision under the federal code. Also importantly, the bill draft addresses victims' rights by requiring the Adjutant General to prescribe and implement a policy that ensures that victims of offenses under the code are treated with dignity, respect, courtesy, and fairness.

Assembly Bill 178 requires the Adjutant General and the Department of Military Affairs to compile and submit certain reports annually. First, it requires the Adjutant General to annually submit a report to the Governor and the Legislature that includes various information related to sexual assault and sexual harassment reported by members of the Guard. This report would not include any personal identifying information. Second, it requires the Department of Military Affairs to annually notify the Legislature of any recent changes to the punitive articles in the federal uniform code of military justice and make recommendations regarding whether the federal changes should be incorporated into the state code.

Assembly Bill 179 simply requires the National Guard to establish and maintain a case management system that enables the Guard to manage and track all case-related information for cases of misconduct within the National Guard.

I'd like to take a moment to thank all of the study committee members for their time and dedication, David Moore and Tom Koss for their hard work on this study committee and these bill drafts. I'd also like to thank Adjutant General Knapp, his team at the Department of Military Affairs and the National Guard Bureau's Office of Complex Investigations for their willingness to work with the study committee.

Thank you for your consideration of these bills. I am happy to answer any questions you may have at this time.



STATE SENATOR

**Eric Wimberger**

DISTRICT 30

State Senator Eric Wimberger  
Assembly Committee on Veterans and Military Affairs  
Re: Joint Legislative Council Bills Addressing Sexual Misconduct Procedures in the  
Wisconsin National Guard  
May 31<sup>st</sup>, 2023

Thank you Mr. Chair and committee members for allowing me to testify on Assembly Bills 177, 178 and 179, which make several important changes to address sexual misconduct and assault in the Wisconsin National Guard.

In recent years, allegations of sexual misconduct within the Wisconsin National Guard (WNG) led to a federal assessment conducted by the National Guard Bureau's Office of Complex Investigations. The Bureau analyzed WNG procedures surrounding reporting of sexual assault and harassment, investigation protocols, and accountability measures and found that WNG procedures and systems for handling allegations of sexual misconduct had major deficiencies, including areas of non-compliance with federal regulations.

To further study this issue and ensure that these deficiencies are fully addressed, the legislature created the Joint Legislative Council's Study Committee on Wisconsin National Guard Sexual Assault Procedures. The study committee met over a five month period identifying several key changes that were rolled into the three bills that are before the committee today:

- **AB 177 – Clarity & Fair Treatment through Federal Alignment:** Makes several changes to the Wisconsin Code of Military Justice to clarify court procedures and ensure fair treatment of victims.
- **AB 178 – Ongoing Reporting Requirements:** Requires the Adjutant General to submit a publically available annual report to the governor and legislature on several topics relating to sexual assault and harassment claims made by members of the National Guard. Also requires
- **AB 179 - Case Management:** Establishes and maintains a case management system to track information related to misconduct cases within the National Guard.

The men and women of the Wisconsin National Guard deserve to feel safe addressing any type of assault or harassment. The legislation we put forward increases transparency and accountability within WNG, while bringing clarity and certainty to victims. I ask that you to please vote to recommend passage of these important bills and give the men and women serving Wisconsin in the guard the tools they need to prevent and address sexual assault and harassment.

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## **Testimony on 2023 Assembly Bills 177, 178 & 179**

Major General Paul Knapp, The Adjutant General

Assembly Committee on Veterans and Military Affairs

May 31, 2023

The Wisconsin Department of Military Affairs (DMA) is providing the following testimony in support of Assembly Bills 177, 178 and 179. Assembly Bill 177 creates punitive articles in the Wisconsin Code of Military Justice (WCMJ) that prohibit certain activities, procedures applicable to courts-martial cases under the WCMJ, treatment of victims of an offense under the WCMJ, defining military offenses under the WCMJ, punishments for violations of the WCMJ, and the removal of gender-specific language from the WCMJ. Assembly Bill 178 requires the Wisconsin National Guard (WING) to submit reports on sexual harassment and assault to the Legislature annually, as well as any changes made to the Uniform Code of Military Justice (UCMJ). Assembly Bill 179 calls for a case management system to monitor and track misconduct in the WING.

In March 2019, U.S. Senator Tammy Baldwin and Governor Tony Evers asked the National Guard Bureau's Office of Complex Investigations (OCI) to assess the WING's sexual assault and harassment reporting procedures, investigation protocols, and accountability measures. Since then, the WING has worked diligently to address and implement each of the suggestions in the OCI's assessment, establishing itself as a leader in the prevention and response to sexual assault and sexual harassment. An emphasis has also been made to make Wisconsin's Sexual Assault Prevention and Response program a priority, with Governor Evers including these measures in his executive budget, ensuring the program is consistent, fair, and reasonably swift, with a focus on the victim and providing care.

As a result of discussions completed during the 2022 Legislative Council Study Committee on Wisconsin National Guard Sexual Misconduct Procedures, Assembly Bills 177, 178 and 179 were written specifically to address issues of accountability, to identify barriers to reporting, to ensure sufficient victim support, and to emphasize the importance of tracking claims of sexual misconduct. The legislation also addresses the use of the WCMJ, efforts to prevent sexual misconduct, and to promote reporting of sexual misconduct.

It is important to evaluate the WING's procedures for investigating and dealing with sexual misconduct, and it has been a priority of mine since day one. Assembly Bills 177, 178 and 179 strengthen the WING's oversight of sexual misconduct, ensure state law complies with pertinent federal requirements, and amend the WCMJ as needed. The WING's sexual assault and harassment reporting procedures, investigation protocols, and accountability measures are expected to improve because of this legislation. DMA respectfully requests that the Committee support Assembly Bills 177, 178 and 179.