



STATE SENATOR

Eric Wimberger

DISTRICT 30

Testimony on Senate Bills 166, 167, 168

Re: Joint Legislative Council Bills Addressing Sexual Misconduct Procedures in the Wisconsin National Guard

**Senate Committee on Labor, Regulatory Reform, Veterans & Military Affairs
August 8th, 2023**

Thank you Mr. Chair and committee members for allowing me to testify on Senate Bills 166, 167 and 168, 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:

- **SB 166 – 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.
- **SB 167 – 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
- **SB 168 - 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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TONY KURTZ

STATE REPRESENTATIVE • 50th ASSEMBLY DISTRICT

Testimony before the Senate Committee on Labor, Regulatory Reform,

Veterans and Military Affairs

Senate Bills 166, 167, and 168

Good morning Chairman Testin and committee members. Thank you for having this hearing today on Senate Bills 166, 167, and 168.

Last summer, I was selected to be the chair of the Joint Legislative Council Study Committee on Wisconsin National Guard Sexual Misconduct Procedures. Senate Bills 166, 167, and 168 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 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.

Senate Bill 166 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.

Senate Bill 167 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.

Senate Bill 168 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.



MELISSA AGARD
STATE SENATOR

DEMOCRATIC LEADER

August 8, 2023

Thank you Chairperson Testin and members of the Committee on Labor, Regulatory Reform, Veterans and Military Affairs for allowing me to submit testimony on Senate Bills 166, 167, and 168.

Last year, I was selected to serve on the Joint Legislative Council Study Committee on Wisconsin National Guard Sexual Misconduct Procedures. I joined members of both parties from the Senate and Assembly, as well as community members and subject matter experts to refine procedures for investigating and addressing sexual misconduct in the Wisconsin National Guard.

The bills before you today are a product of bipartisan collaboration throughout the summer and are intended to provide clarity to Wisconsin National Guard's existing procedures. I am proud of the deliberative discussions shared between my colleagues and committee members which resulted in three meaningful pieces of legislation that were unanimously recommended by the study committee.

We can all agree that military members deserve to be treated with the utmost respect and in the unfortunate circumstance when an assault occurs, our brave service men and women must know that there are systems in place that prioritize their safety and hold their assailant accountable.

Senate Bill 166, 167, and 168 are a step in the right direction to provide clarity to Wisconsin National Guard's sexual misconduct procedures. I am hopeful that these bills will become law in a bipartisan manner and that we continue this focus on preventing misconduct and supporting survivors of sexual assault— we must send a clear message that our government recognizes, believes, and always stands with survivors.

Thank you for your consideration. Please don't hesitate to reach out to my office with any questions.

In Service,

A handwritten signature in black ink that reads "Melissa Agard".

Melissa Agard
State Senator
16th Senate District



Testimony on 2023 Senate Bills 166, 167 & 168

Major General Paul Knapp, The Adjutant General

Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs

August 8, 2023

The Wisconsin Department of Military Affairs (DMA) is providing the following in support of Senate Bills 166, 167 and 168. Senate Bill 166 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 167 requires the WING to submit reports on sexual harassment and assault to the Legislature yearly, as well as changes to the Uniform Code of Military Justice (UCMJ). Senate Bill 168 calls for a case management system to monitor misconduct in the Wisconsin National Guard (WING).

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

Following discussions, Senate Bills 166, 167 and 168 were written to address issues of accountability, identify barriers to reporting, ensure sufficient victim support, and emphasize the importance of tracking claims of sexual misconduct. The legislation also addresses the use of the WCMJ, efforts to prevent sexual misconduct, and efforts to promote reporting of sexual misconduct.

It is important to study the WING's procedures for investigating and dealing with sexual misconduct, and it has been a priority of mine since day one. Senate Bills 166, 167 and 168 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. In fact, Governor Evers had even put these measures into his Executive Budget.

Thank you very much for your consideration of Senate Bills 166, 167 and 168.