

1 AN ACT ...; **relating to:** powers and duties of the department of military affairs, military
 2 officers, military property and assets, the national guard and state defense force,
 3 rights of service personnel, and the Wisconsin code of military justice.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the drafting subcommittee of the joint legislative council’s special committee on recodification of ch. 21, military affairs. The special committee was directed to conduct a recodification of ch. 21, relating to military affairs, to include reorganizing the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, making other necessary organizational changes, and making minor substantive changes.

Under the draft, ch. 21 will be reorganized as follows:

Subchapter I

General Provisions

- 21.01 Definitions.
- 21.02 Powers and duties of the governor.
- 21.03 Powers and duties of the department
- 21.04 Powers and duties of the adjutant general.
- 21.05 Civil service status.

Subchapter II

Military Officers

- 21.10 Military staff of the governor.
- 21.11 United States property and fiscal officer.
- 21.12 Chief surgeons.
- 21.13 Discharge of officers.
- 21.14 Authority to administer oaths.
- 21.15 Resignation of officer.

**Subchapter IV
Property and Assets**

**Subchapter IV
National Guard and State Defense Force**

**Subchapter V
Rights of Service Personnel**

**Subchapter VI
Wisconsin Code of Military Justice**

COMMENT: There was discussion at the last meeting of creating the governor's homeland security council as a statutory body, but no resolution of this issue or what the composition of such a council would be. The governor's homeland security council is currently established by executive order.

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SECTION 1. Subchapter I of chapter 21 [precedes 21.01] of the statutes is created to read:

CHAPTER 21

SUBCHAPTER I

GENERAL PROVISIONS

SECTION 2. 21.01 of the statutes is renumbered __.

SECTION 3. 21.01 of the statutes is created to read:

21.01 Definitions. In this chapter:

1 (1) "Department" means the department of military affairs.

2 (2) "Wisconsin code of military justice" means subch. VI of this chapter.

3 **SECTION 4.** 21.015 (title) of the statutes is repealed.

4 **SECTION 5.** 21.015 (intro.), (1), and (2) of the statutes are renumbered 21.03 (1) (intro.),
5 (a), and (b) and 21.03 (1) (a) (intro.), as renumbered, is amended to read:

6 21.03 (1) DEPARTMENT DUTIES. (a) (intro.) The department of ~~military affairs~~ shall do
7 all of the following:

8 **SECTION 6.** 21.02 of the statutes is created to read:

9 **21.02 Powers and duties of the governor.** (1) In addition to the powers and duties
10 of the governor under s. 166.03 (1):

11 **SECTION 7.** 21.03 of the statutes is renumbered 21.____.

12 **SECTION 8.** 21.03 (title) of the statutes is created to read:

13 **21.03 (title) Powers and duties of the department.**

14 **SECTION 9.** 21.03 (1) (d) of the statutes is created to read:

15 21.03 (1) (d) Shall serve on and provide assistance to the council on military and state
16 relations under s. 14.017 (4).

17 **SECTION 10.** 21.04 of the statutes is renumbered 21.____.

18 **SECTION 11.** 21.04 of the statutes is created to read:

19 **21.04 Powers and duties of the adjutant general.** In addition to the powers and duties
20 of the adjutant general under s. 166.03 (2):

21 **SECTION 12.** Subchapter II of chapter 21 [precedes 21.10] of the statutes is created to
22 read:

23 CHAPTER 21

24 SUBCHAPTER II

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MILITARY OFFICERS

SECTION 13. 21.10 (1) (e) of the statutes is created to read:

21.10 (1) (e) A joint chief of staff who may be a general officer.

SECTION 14. 21.18 (title), (1) (intro.) and (a) to (k) of the statutes are renumbered 21.10 (title), (1) (intro.), (a) to (d), and (f) to (L).

SECTION 15. 21.18 (1m) of the statutes is renumbered 21.10 (3).

SECTION 16. 21.18 (2) of the statutes is renumbered 21.10 (4) and amended to read:

21.10 (4) No person may be appointed on the governor's military staff who has not had previous military experience.

SECTION 17. 21.18 (3) of the statutes is renumbered 21.10 (5).

SECTION 18. 21.18 (4) of the statutes is renumbered 21.10 (6).

SECTION 19. 21.18 (5) of the statutes is renumbered 21.10 (7) and amended to read:

21.10 (7) The adjutant general shall appoint persons to fill vacancies in positions in the military staff of the governor under sub. (1) (b) to (L). Vacancies on the military staff of the governor shall be filled by appointment from officers actively serving in the national guard, except as provided in s. 15.31. Interim vacancies shall be filled by appointment by the adjutant general for the residue of the unexpired term.

SECTION 20. 21.19 (1) of the statutes is renumbered 21.04 (1) and amended to read:

21.04 (1) The adjutant general shall be the military chief of staff to the governor. The adjutant general shall have the custody of all property, military records, correspondence and other documents relating to the national guard and any other military forces organized under the laws of this state. The adjutant general may appoint an assistant ~~quartermaster general~~ to issue and account for state property. The adjutant general shall ~~be the medium of~~ transmit military correspondence ~~with~~ to and from the governor and perform all other duties pertaining

1 to the office or prescribed by law, including the preparation and submission to the governor
2 of reports under s. 15.04 (1) (d).

3 **SECTION 21.** 21.19 (2) of the statutes is renumbered 21.03 (2) and amended to read:

4 21.03 (2) DEPARTMENT POWERS. The department of military affairs ~~on~~ may do any of
5 the following:

6 (a) On behalf of the state ~~may~~, rent to appropriate organizations or individuals
7 state-owned lands, buildings, and facilities used by, acquired for, or erected for the national
8 guard when not required for use by the national guard. ~~Such~~ The rental shall not be effective
9 unless in writing and approved by the governor and the adjutant general or a designee in
10 writing.

COMMENT: Is “on behalf of the state” needed?

11 **SECTION 22.** 21.19 (3) (a) of the statutes is renumbered 21.03 (2) (b) and amended to
12 read:

13 21.03 (2) (b) ~~The department of military affairs on~~ On behalf of the state, upon appraisal
14 by the state chief engineer submitted to the governor in writing, ~~may~~ sell and convey upon such
15 terms as the department of military affairs may determine, with the approval of the governor
16 in writing, any state-owned property acquired or erected for state military purposes, ~~which~~
17 if the property is no longer useful to the national guard.

COMMENT: Is “on behalf of the state” needed?

18 **SECTION 23.** 21.19 (3) (b) of the statutes is repealed.

19 **SECTION 24.** 21.19 (4) of the statutes is renumbered 21.04 (3).

20 **SECTION 25.** 21.19 (5) of the statutes is renumbered 21.10 (2) and amended to read:

21 21.10 (2) In the absence or incapacity of the adjutant general, the senior ranking deputy
22 adjutant general for army or air shall have all the powers and duties of the adjutant general.

1 **SECTION 26.** 21.19 (6) of the statutes is renumbered 21.04 (4) and amended to read:

2 21.04 (4) The adjutant general as ~~quartermaster general~~ shall also be chief of all
3 logistical services.

4 **SECTION 27.** 21.19 (7) of the statutes is renumbered 21.04 (5) and 21.04 (5) (a) (intro.)
5 and (b), are renumbered and amended to read:

6 21.04 (5) (a) The adjutant general as ~~quartermaster general~~ shall do all of the following:

7 (b) The transportation of all troops, arms, accoutrements, stores supplies, and other
8 property and the preparation for ~~encampments~~ training shall be ~~contracted for~~ undertaken by
9 the adjutant general under direction of the governor.

10 **SECTION 28.** 21.19 (8) of the statutes is renumbered 21.04 (6) and amended to read:

11 21.04 (6) The adjutant general or a designee shall issue all necessary supplies, quarters,
12 and meals to members and units of the national guard on state active duty and may contract
13 for the purchase and transportation ~~of such supplies~~, subject to s. 16.71 (1).

14 **SECTION 29.** 21.19 (9) of the statutes is renumbered 21.04 (7) and amended to read:

15 21.04 (7) When any military property belonging to the state as owner or bailee is
16 wrongfully held by another person, the adjutant general may bring an action in the name of
17 the state to recover possession of the same property or the money value thereof of the property.

18 **SECTION 30.** 21.19 (10) of the statutes is renumbered 21.04 (8) and amended to read:

19 21.04 (8) The adjutant general may, upon receipt of meritorious requests for state
20 service flags ~~for public use~~ and within the limits of the appropriation made under s. 20.465
21 (1) (e), furnish ~~such~~ the flags without charge to the persons or organizations requesting them.

22 **SECTION 31.** 21.19 (11) of the statutes is renumbered 21.04 (9).

23 **SECTION 32.** 21.19 (12) of the statutes is renumbered 21.04 (10) and amended to read:

1 (a) Calculate 40% the state share of the average cost per pupil attending the ~~Youth~~
2 ~~Challenge program~~ Academy and report this information to the department of public
3 instruction.

4 (b) Notwithstanding s. 118.125, report to each school district in which a pupil attending
5 the program resides the pupil's name and the name and address of the pupil's custodial parent
6 or guardian.

7 **SECTION 41.** 21.28 of the statutes is renumbered 21.11.

8 **SECTION 42.** 21.30 (title) of the statutes is renumbered 21.12 (title) and amended to read:

9 **21.12 (title) Chief surgeons; powers and duties.**

10 **SECTION 43.** 21.30 of the statutes is renumbered 21.12 (1) and amended to read:

11 21.12 (1) The chief surgeons for army and air shall, under direction of the adjutant
12 general, have general supervision of the medical units of the national guard and state defense
13 force when organized. The chief surgeons shall make recommendations concerning
14 procurement of medical supplies for state active duty operations, for the procurement and
15 training of medical personnel and for the publication of national guard directives on medical
16 subjects. ~~The chief surgeons shall submit an annual report of the affairs and expenses of their~~
17 ~~departments to the adjutant general.~~

18 **SECTION 44.** 21.32 (title) of the statutes is repealed.

19 **SECTION 45.** 21.32 of the statutes is renumbered 21.12 (2).

20 **SECTION 46.** 21.33 (title) of the statutes is repealed.

21 **SECTION 47.** 21.33 of the statutes is renumbered 21.04 (13) and amended to read:

22 21.04 (13) The ~~quartermaster general acting as paymaster~~ adjutant general, under
23 orders from the governor, may draw from the state treasury the money necessary for paying
24 troops in camp or on state active service duty, and shall furnish ~~such~~ the security for the same

1 as money that the secretary of administration ~~may direct~~ requires. The amount due on account
2 of the field, staff, or other officers, noncommissioned staff and band, company, or enlistees,
3 not ~~herein~~ enumerated, if any, shall be paid to the person to whom the ~~same~~ money shall be
4 due, on the properly signed and certified payrolls.

5 **SECTION 48.** 21.35 (title) of the statutes is repealed.

6 **SECTION 49.** 21.35 of the statutes is renumbered 21.___ and amended to read:

7 **21.35** ~~The organization, armament, equipment, and discipline of the national guard~~
8 ~~shall be that prescribed by federal laws or regulations; and the governor may by order perfect~~
9 ~~such organization, armament, equipment, and discipline, at any time, so as to comply with~~
10 ~~such laws and regulations insofar as they are consistent with the Wisconsin code of military~~
11 ~~justice. Notwithstanding any rule or regulation prescribed by the federal government or any~~
12 ~~officer or department thereof of the federal government, no person, otherwise qualified, may~~
13 ~~be denied membership in the national guard because of sex, color, race, creed, or sexual~~
14 ~~orientation and no member of the national guard may be segregated within the national guard~~
15 ~~on the basis of sex, color, race, creed, or sexual orientation. Nothing in this section prohibits~~
16 ~~separate facilities for persons of different sexes with regard to dormitory accommodations,~~
17 ~~public toilets, showers, saunas, and dressing rooms.~~

18 **SECTION 50.** 21.36 (1) of the statutes is renumbered 21.___ and amended to read:

19 21.36(1) The rules of discipline and the regulations of the armed forces of the U.S. shall,
20 so far as the same are applicable, constitute the rules of discipline and the regulations of the
21 national guard; the rules and uniform code of military justice established by congress and the
22 department of defense for the armed forces shall be adopted so far as they are applicable and
23 consistent with the Wisconsin code of military justice for the government of the national
24 guard, and the system of instruction and the drill regulations prescribed for the different arms

1 and corps of the armed forces of the U.S. shall be followed in the military instruction and
2 practice of the national guard, and the use of any other system is forbidden. The organization,
3 armament, equipment, and discipline of the national guard shall be that prescribed by federal
4 laws or regulations; and the governor may by order perfect the organization, armament,
5 equipment, and discipline, at any time, so as to comply with the laws and regulations insofar
6 as they are consistent with the Wisconsin code of military justice.

7 **SECTION 51.** 21.36 (2) of the statutes is renumbered 21.02 (2).

8 **SECTION 52.** 21.37 of the statutes is renumbered 21.70.

9 **SECTION 53.** Subchapter IV of chapter 21 [precedes 21.40] of the statutes is created to
10 read:

11 **CHAPTER 21**

12 **SUBCHAPTER IV**

13 **NATIONAL GUARD AND STATE DEFENSE FORCE**

14 **SECTION 54.** 21.51 of the statutes is renumbered 21.13.

COMMENT: Dave Dziobkowski was going to review the language of
current s. 21.51 to see if it needs to be changed. There was discussion of
adding "subject to federal requirements" to the section.

15 **SECTION 55.** 21.52 of the statutes is renumbered 21.14.

16 **SECTION 56.** 21.54 of the statutes is renumbered 21.15 and amended to read:

17 **21.15 Resignation of officer.** A commissioned officer may resign the officer's
18 commission to the officer's immediate commanding officer, in writing, who shall promptly
19 forward the ~~same~~ resignation through military channels to the adjutant general. The governor
20 shall, by order, accept or reject the ~~same~~ resignation, and, if accepted, fix the date of its taking
21 effect. No resignation shall take effect except as so ordered.

COMMENT: Dave Dziobkowski was going to review this section to determine whether the second and third sentences are needed.

1 **SECTION 57.** Subchapter V of chapter 21 [precedes 21.60] of the statutes, is created to
2 read:

3 CHAPTER 21
4 SUBCHAPTER V
5 RIGHTS OF SERVICE PERSONNEL

6 **SECTION 58.** 21.62 of the statutes is repealed.

7 **SECTION 59.** Subchapter VI of chapter 21 [precedes 21.70] of the statutes is created to
8 read:

9 CHAPTER 21
10 SUBCHAPTER VI
11 WISCONSIN CODE OF MILITARY JUSTICE

12 **SECTION 60.** 21.70 (title) of the statutes is repealed.

13 **SECTION 61.** 21.70 (1) and (2) of the statutes are renumbered 21.02 (1) (a) and (b) and
14 amended to read:

15 21.02 **(1)** (a) The governor may request volunteers of the national guard to provide
16 assistance to federal, state and local law enforcement officers, within or outside the boundaries
17 of this state, in drug interdiction and counter-drug activities under 32 USC 112. These
18 activities may include the operation and maintenance of equipment and facilities. The
19 governor may order, with their consent, any national guard members who volunteer under this
20 section to duty in federally funded status. The governor may delegate his or her authority
21 under this section to the adjutant general. The adjutant general shall follow all laws and

1 regulations of the U.S. department of defense when ordering national guard members to
2 perform drug interdiction and counter-drug activities under this ~~section~~ subsection.

3 (b) A national guard member assisting in drug interdiction and counter-drug activities
4 under this ~~section~~ subsection shall ~~obey and execute~~ _____ the instructions of a law
5 enforcement officer involved in these activities given to the national guard member through
6 the military chain of command.

COMMENT: Randi Milsap was going to try to find alternative language
for “obey and execute”.

7

(END)