

1 November 30, 2006, draft

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

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

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***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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***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 III**

#### **Property and Assets**

- 21.20 Distribution of military property.
- 21.21 Military property accountability.
- 21.22 Camp Williams.
- 21.23 Facilities and lands.
- 21.24 Encroachment on military areas and interference with military personnel.

### **Subchapter IV**

#### **National Guard and State Defense Force**

- 21.30 Composition of national guard.
- 21.31 Terms of enlistment and discharge.
- 21.32 Exemptions from certain county duties.
- 21.33 Exemptions from civil authority.
- 21.34 Decorations and awards.
- 21.35 Training;special schools;pay and allowances.
- 21.36 Call to state active duty.
- 21.37 Uniform of national guard.
- 21.38 Defense of members of guard;payment of judgments.
- 21.39 Commission and rank.
- 21.40 Examinations for promotion or appointments.

21.41	Pay.
21.42	Educational benefits.
21.43	No discrimination.
21.44	Rules of discipline.
21.45	State defense force authorized.

\*\*\*NOTE: The listing of these section titles shows that we have not thought enough about what should go where in this subchapter. Should we leave some space between the NG and SDF subsections? Are ss. 21.13 and 21.31 OK as is?

### Subchapter V

#### Rights of Service Personnel

### Subchapter VI

#### Wisconsin Code of Military Justice

1           **SECTION 1.** 20.465 (1) (i) of the statutes is amended to read:  
 2           20.465 (1) (i) *Distance learning centers.* All moneys received from renting the  
 3           distance learning centers, for the operation and maintenance of the centers under  
 4           s. ~~21.19 (13)~~ 21.04 (1) (n).

**History:** 1971 c. 125; 1975 c. 39, 224; 1977 c. 29; 1977 c. 418 s. 929 (55); 1981 c. 20, 207; 1983 a. 27; 1983 a. 333 s. 6; 1987 a. 27; 1987 a. 63 s. 13; 1989 a. 31 ss. 486 to 491i, 504 to 514, 521, 522; 1989 a. 115; 1991 a. 39, 104; 1993 a. 16, 253, 490; 1995 a. 13, 27, 247; 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33, 186; 2005 a. 25, 269.

\*\*\*NOTE: There are a number of other cross references in other chapters that will have to be amended once we finalize the revisions of ch. 21.

5           **SECTION 2.** Subchapter I of chapter 21 [precedes 21.01] of the statutes is created  
 6           to read:

### CHAPTER 21

#### SUBCHAPTER I

#### GENERAL PROVISIONS

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

11          **21.01 Definitions.** In this chapter:

**SECTION 3**

1           **(1)** “Department” means the department of military affairs.

2           **(2)** “Law enforcement agency” means an agency of the federal government, a  
3 federally recognized Indian tribe or band, or a state or political subdivision of a state,  
4 whose purpose is the detection and prevention of crime and enforcement of laws or  
5 ordinances.

6           **(3)** “Law enforcement officer” means any person employed by a law  
7 enforcement agency who is authorized to make arrests for violations of the laws or  
8 ordinances that the person is employed to enforce.

9           **(4)** “Military property” includes arms, clothing, equipment, publications,  
10 supplies, and vehicles owned by or in the custody of the department.

11           **(5)** “Military records” means correspondence, medical records, personnel  
12 records, and other documents in the custody of the department.

13           **(6)** “National guard” unless the context otherwise requires, means both the  
14 Wisconsin army national guard and the Wisconsin air national guard.

15           **(7)** “Political subdivision” means a city, village, town, or county.

16           **(8)** “Unit” means a formally organized division or subset of the national guard  
17 or state defense force.

\*\*\*\*NOTE: Are there any other words or phrases that we should define for the whole  
chapter?

18           **SECTION 4.** 21.02 (title) of the statutes is created to read:

19           **21.02 Powers and duties of the governor.**

20           **SECTION 5.** 21.70 (1) and (2) of the statutes are renumbered 21.02 (1) (a) and  
21 (b) and amended to read:

22           21.02 **(1)** (a) The governor may request volunteers of from the national guard  
23 to provide assistance to federal, state and local law enforcement officers, within or

1 outside the boundaries of this state, in drug interdiction and counter-drug activities  
2 under 32 USC 112. These activities may include the operation and maintenance of  
3 equipment and facilities. The governor may order, with their consent, any national  
4 guard members who volunteer under this section to duty in federally funded status.  
5 The governor may delegate his or her authority under this ~~section~~ subsection to the  
6 adjutant general. The adjutant general shall follow all laws and regulations of the  
7 U.S. department of defense when ordering national guard members to perform drug  
8 interdiction and counter-drug activities under this ~~section~~ subsection.

9 (b) A national guard member assisting in drug interdiction and counter-drug  
10 activities under this ~~section~~ subsection shall obey and execute the instructions of a  
11 law enforcement officer from the assisted agency involved in these activities that are  
12 given to the national guard member through the military chain of command.

13 **SECTION 6.** 21.015 (title) of the statutes is renumbered 21.03 (title) and  
14 amended to read:

15 **21.03 (title) Department Powers and duties of the department.**

History: 1983 a. 27.

16 **SECTION 7.** 21.015 (intro.) of the statutes is renumbered 21.03 (1) (intro.) and  
17 amended to read:

18 21.03 (1) (intro.) The department ~~of military affairs~~ shall do all of the following:

19 **SECTION 8.** 21.015 (1) of the statutes is renumbered 21.03 (1) (a) and amended  
20 to read:

21 21.03 (1) (a) Administer the national guard.

History: 1983 a. 27.

22 **SECTION 9.** 21.015 (2) of the statutes is renumbered 21.03 (1) (b) and amended  
23 to read:

1           21.03 (1) (b) Provide facilities and support for the national guard ~~and any other~~  
2           ~~support available from the appropriations under s. 20.465.~~

3           History: 1983 a. 27.

3           **SECTION 10.** 21.26 (1) and (2) of the statutes are consolidated, renumbered  
4           21.03 (1) (c) and amended to read:

5           21.03 (1) (c) ~~The department of military affairs shall administer~~ Administer  
6           the ~~Youth Challenge~~ Academy program for disadvantaged youth under 32 USC 509.  
7           The department shall determine eligibility criteria for the Challenge Academy  
8           consistent with federal law. ~~(2)~~ Annually, the department ~~of military affairs~~ shall  
9           do all of the following:

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

13           (b) 2. Notwithstanding s. 118.125, report to each school district in which a pupil  
14           attending the program resides, the pupil's name and the name and address of the  
15           pupil's custodial parent or guardian.

16           **SECTION 11.** 21.19 (2) of the statutes is renumbered 21.03 (2) and amended to  
17           read:

18           21.03 (2) The department ~~of military affairs on behalf of the state~~ may rent do  
19           any of the following:

20           (a) Rent to appropriate organizations or individuals state-owned lands,  
21           buildings, and facilities used by, acquired for, or erected for the national guard when  
22           not required for use by the national guard. ~~Such~~ The rental shall agreement is not  
23           be effective unless in writing and approved in writing by the ~~governor and the~~  
24           adjutant general or a his or her designee ~~in writing.~~

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

3           21.03 **(2)** (b) ~~The department of military affairs on behalf of the state, upon~~  
4 Upon appraisal by the state chief engineer submitted to the governor in writing, ~~may~~  
5 ~~sell and convey upon such terms as the department of military affairs may determine~~  
6 and with the written approval of the governor, ~~in writing~~ sell and convey any  
7 state-owned property acquired or erected for state military purposes, ~~which if the~~  
8 property is no longer useful to the national guard.

9           **SECTION 13.** 21.04 (title) and (1) (intro.) of the statutes are created to read:

10           **21.04 Powers and duties of the adjutant general.** **(1)** (intro.) The adjutant  
11 general or his or her designee shall do all of the following:

12           **SECTION 14.** 21.19 (1) of the statutes is renumbered 21.04 (1) (a) and amended  
13 to read:

14           21.04 **(1)** (a) ~~The adjutant general shall be~~ Be the military chief of staff to the  
15 governor. ~~The adjutant general shall have the custody of all property, military~~  
16 ~~records, correspondence, and other documents relating to the national guard and any~~  
17 ~~other military forces organized under the laws of this state. The adjutant general~~  
18 ~~may appoint an assistant quartermaster general to issue and account for state~~  
19 ~~property. The adjutant general shall be the medium of military correspondence with~~  
20 ~~the governor and perform all other duties pertaining to the office or prescribed by~~  
21 ~~law, including the preparation and submission to the governor of reports under s.~~  
22 ~~15.04 (1) (d).~~

23           **SECTION 15.** 21.04 (1) (b) of the statutes is created to read:

24           21.04 **(1)** (b) Advise the governor on military issues and transmit military  
25 correspondence to and from the governor

1           **SECTION 16.** 21.33 of the statutes is renumbered 21.04 (1) (c) and amended to  
2 read:

3           21.04 (1) (c) ~~The quartermaster general acting as paymaster under~~ Under  
4 orders from the governor, may draw from the state treasury the money necessary for  
5 paying ~~troops in camp or~~ national guard members on state active service duty and  
6 ~~shall furnish such security for the same as the secretary of administration may~~  
7 ~~direct. The amount due on account of the field, staff, or other officers,~~  
8 ~~noncommissioned staff and band, company, or enlistees, not herein enumerated, if~~  
9 ~~any, shall be paid to the person to whom the same shall be due, on the properly signed~~  
10 ~~and certified payrolls.~~

\*\*\*\*NOTE: Should something like this be in the part about the SDF?

11           **SECTION 17.** 21.19 (11) of the statutes is renumbered 21.04 (1) (d) and amended  
12 to read:

13           21.04 (1) (d) ~~The adjutant general shall provide such~~ Provide necessary  
14 medical supplies and services ~~as are necessary~~ to the national guard during periods  
15 of state active duty not otherwise provided under this chapter and ch. 102, to be  
16 charged to the appropriation under s. 20.465 (1) (c).

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

17           **SECTION 18.** 21.19 (12) of the statutes is renumbered 21.04 (1) (e) and amended  
18 to read:

19           21.04 (1) (e) ~~The adjutant general shall provide from the appropriation under~~  
20 ~~s. 20.465 (1) (e)~~ Provide a United States flag or state flag to the next of kin of each  
21 deceased member of the national guard who dies ~~as a result of~~ during state service  
22 ~~under s. 21.11 active duty, to be charged to the appropriation under s. 20.465 (1) (c).~~

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.



1           **SECTION 19.** 21.19 (7) (a) 1. of the statutes is renumbered 21.04 (1) (f) and  
2 amended to read:

3           21.04 (1) (f) Have ~~charge~~ custody of all the military property ~~of the state and~~  
4 ~~shall~~ military records and carefully preserve, repair, and account for the property  
5 and records.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

6           **SECTION 20.** 21.19 (4) of the statutes is renumbered 21.04 (1) (g) and amended  
7 to read:

8           21.04 (1) (g) ~~The adjutant general shall be the auditor of~~ Audit all military  
9 accounts, and all accounts or claims payable from the treasury of the state for  
10 military purposes ~~shall be regularly audited by the adjutant general before payment.~~  
11 ~~The adjutant general shall cause to be prepared and issued all necessary books and~~  
12 ~~forms required by the adjutant general's office for the national guard. All of the books~~  
13 ~~and forms shall be made to conform as nearly as practicable to those in use in the~~  
14 United States army.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

15           **SECTION 21.** 21.19 (7) (a) 2. of the statutes is renumbered 21.04 (1) (h) and  
16 amended to read:

17           21.04 (1) (h) ~~Keep in such manner as the governor directs, and subject to the~~  
18 ~~governor's inspection,~~ an account of all moneys received and expended by the  
19 department.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

20           **SECTION 22.** 21.19 (1m) of the statutes is renumbered 21.04 (1) (i) and amended  
21 to read:

1           21.04 (1) (i) ~~The adjutant general shall administer~~ Administer, with the  
2 approval of the governor, state–federal cooperative funding agreements related to  
3 the department.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

4           **SECTION 23.** 21.04 (1) (j) of the statutes is created to read:

5           21.04 (1) (j) Prepare the training of national guard members.

6           **SECTION 24.** 21.19 (7) (b) of the statutes is renumbered 21.04 (1) (k) and  
7 amended to read:

8           21.04 (1) (k) ~~The~~ Provide or contract for the transportation of all national guard  
9 troops, arms, accoutrements, stores members and other military property and the  
10 preparation for encampments shall be contracted for by the adjutant general under  
11 direction of the governor.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

12           **SECTION 25.** 21.19 (8) of the statutes is renumbered 21.04 (1) (L) and amended  
13 to read:

14           21.04 (1) (L) ~~The adjutant general or a designee shall issue~~ Provide or contract  
15 for all necessary supplies to military property, lodging, and meals for members and  
16 units of the national guard and may contract for the purchase and transportation of  
17 such supplies the state defense force, subject to s. 16.71 (1).

\*\*\*\*NOTE: We added state defense force here but not other places. Should we do so,  
or perhaps should we create a term like “state military forces” to mean the NG and SDF,  
and use that term throughout the chapter when applicable to both?

18           **SECTION 26.** 21.04 (1) (m) of the statutes is created to read:

19           21.04 (1) (m) Prepare and issue all necessary accounting books and forms  
20 required by the adjutant general’s office for the national guard. All of the accounting  
21 books and forms shall be made to conform as nearly as practicable to those in use in  
22 the United States army or air force.

1           **SECTION 27.** 21.19 (13) of the statutes is renumbered 21.04 (1) (n) and amended  
2 to read:

3           21.04 (1) (n) ~~The adjutant general shall cooperate~~ Cooperate with the federal  
4 government in the operation and maintenance of distance learning centers for the  
5 use of current and former members of the national guard and the U.S. armed forces.  
6 The adjutant general may charge rent for the use of a center by a nonmilitary or  
7 nonfederal person. All moneys received under this subsection paragraph shall be  
8 credited to the appropriation account under s. 20.465 (1) (i).

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

9           **SECTION 28.** 21.19 (14) of the statutes is renumbered 21.04 (1) (o) and amended  
10 to read:

11           21.04 (1) (o) ~~The adjutant general shall provide~~ Provide the department of  
12 veterans affairs information on all necessary military points of contact and general  
13 deployment information for activated and deployed members of the national guard.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

14           **SECTION 29.** 21.19 (7) (a) 3. of the statutes is renumbered 21.04 (1) (p) and  
15 amended to read:

16           21.04 (1) (p) Perform the customary duties of the his or her office, ~~and of the~~  
17 ~~office of chief of all logistical services, and have the custody of all records, returns,~~  
18 ~~and papers pertaining to those offices.~~

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107; 2003 a. 33, 69, 163.

19           **SECTION 30.** 21.04 (2) (intro.) of the statutes is created to read:

20           21.04 (2) (intro.) The adjutant general or his or her designee may do any of the  
21 following:

22           **SECTION 31.** 21.36 (2) of the statutes is renumbered 21.04 (2) (a) and amended  
23 to read:

**SECTION 31**

1           21.04 (2) (a) ~~The governor may make and~~ Make, publish, and have printed  
2 rules, regulations, and orders for the ~~government~~ governance of the national guard,  
3 ~~not inconsistent with the law, and cause the rules, regulations, or orders, together~~  
4 ~~with any related laws, to be printed and distributed in book form, or another form,~~  
5 ~~in any number that the governor considers necessary. The governor may provide~~ (b)  
6 Provide for all books and forms that ~~may be necessary for the proper discharge of the~~  
7 duty of all officers of the national guard. ~~The governor may delegate the authority~~  
8 ~~under this subsection to the adjutant general by executive order.~~

History: 1979 c. 221; 1983 a. 192; 1991 a. 269, 316; 2001 a. 107.

9           **SECTION 32.** 21.19 (9) of the statutes is renumbered 21.04 (2) (c) and amended  
10 to read:

11           21.04 (2) (c) ~~When any military property belonging to the state as owner or~~  
12 ~~bailee is wrongfully held by another person, the adjutant general may bring an action~~  
13 in the name of the state to recover possession of the ~~same~~ property or the money value  
14 ~~thereof of the property.~~

15           **SECTION 33.** 21.19 (10) of the statutes is renumbered 21.04 (2) (d) and amended  
16 to read:

17           21.04 (2) (d) ~~The adjutant general may, upon~~ Upon receipt of a meritorious  
18 requests request for a state service flags for public use flag and within the limits of  
19 the appropriation ~~made under s. 20.465 (1) (e), furnish such flags~~ a flag without  
20 charge to the ~~persons or organizations requesting them~~ person who requested it.

21           **SECTION 34.** 21.11 (3) of the statutes is renumbered 21.04 (2) (e) and amended  
22 to read:

1           21.04 (2) (e) ~~The adjutant general may activate~~ Activate members of the  
2       national guard ~~for the purpose of serving to serve~~ on an honors detail of military  
3       funeral honors for a person described under s. 45.60 (1).

History: 1979 c. 221; 1991 a. 316; 1993 a. 246; 1999 a. 62, 136; 2005 a. 22.

4           **SECTION 35.** 21.025 (2) (b), (5) (c), (7), and (13) of the statutes are repealed.

5           **SECTION 36.** Subchapter II of chapter 21 [precedes 21.10] of the statutes is  
6       created to read:

7   **CHAPTER 21**

8   SUBCHAPTER II

9   MILITARY OFFICERS

10          **SECTION 37.** 21.18 (title) of the statutes is renumbered 21.10 (title) and (1) and  
11       amended to read:

12          21.10 (1) (title) **Military staff of governor.**

History: 1981 c. 35; 1983 a. 391; 1987 a. 63; 2003 a. 25, 69, 326.

13          **SECTION 38.** 21.18 (1) of the statutes is renumbered 21.10 (title) and (1) and  
14       amended to read:

15          21.10 (1) The military staff of the governor shall consist of the following:

16           (a) An adjutant general, with a minimum rank of brigadier general and a  
17       maximum rank of lieutenant general.

18           (b) A deputy adjutant general for army, with a rank of brigadier general, unless  
19       selected for a military position requiring federal recognition as a major general.

20           (c) A deputy adjutant general for air, with a rank of brigadier general, unless  
21       selected for a military position requiring federal recognition as a major general.

22           (d) Two assistant adjutants general for army, ~~who may hold the~~ whose rank of  
23       may not exceed brigadier general.

1           (e) ~~(f)~~ An assistant adjutant general for air, ~~who may hold the~~ whose rank of may  
2 not exceed brigadier general.

3           ~~(f)~~ ~~(g)~~ A chief surgeon for army, ~~who~~ whose rank may be a not exceed major  
4 general officer.

5           ~~(g)~~ ~~(h)~~ A chief surgeon for air, ~~who~~ whose rank may be a not exceed major  
6 general officer.

7           ~~(h)~~ ~~(i)~~ A staff judge advocate for army, ~~who~~ whose rank may be a not exceed  
8 major general officer.

9           ~~(i)~~ ~~(j)~~ A staff judge advocate for air, ~~who~~ whose rank may be a not exceed major  
10 general officer.

11           ~~(j)~~ ~~(k)~~ A state chaplain, either army or air, ~~who~~ whose rank may be a not exceed  
12 major general officer.

13           ~~(k)~~ ~~(L)~~ Such other officers as the governor or adjutant general deems necessary.

14 History: 1981 c. 35; 1983 a. 391; 1987 a. 63; 2003 a. 25, 69, 326.

14           **SECTION 39.** 21.18 (title) and (1) (intro.) of the statutes are renumbered 21.10  
15 (title) and (1) (intro.).

16           **SECTION 40.** 21.10 (1) (e) of the statutes is created to read:

17           21.10 **(1)** (e) A joint chief of staff, whose rank may may not exceed major  
18 general.

19           **SECTION 41.** 21.19 (5) of the statutes is renumbered 21.10 (2) and amended to  
20 read:

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

1           **SECTION 42.** 21.18 (1m) of the statutes is renumbered 21.10 (3) and amended  
2 to read:

3           **21.10 (3)** In the event ~~any of the a~~ deputy adjutants adjutant general, for army  
4 or for air, ~~are~~ is appointed to a military position as a major general, the adjutant  
5 general shall appoint, for any periods of absence of that deputy adjutant general due  
6 to other military duties, an acting deputy adjutant general. The adjutant general  
7 may appoint one of the assistant adjutants general as an acting deputy adjutant  
8 general.

History: 1981 c. 35; 1983 a. 391; 1987 a. 63; 2003 a. 25, 69, 326.

9           **SECTION 43.** 21.18 (2) of the statutes is renumbered 21.10 (4) and amended to  
10 read:

11           **21.10 (4)** No person may be appointed ~~on~~ to the governor's military staff who  
12 has not had previous state or U.S. military experience.

13           **SECTION 44.** 21.18 (3) of the statutes is renumbered 21.10 (5) and amended to  
14 read:

15           **21.10 (5)** All staff officers appointed under sub. (1), except the adjutant general  
16 whose tenure is governed by ss. 15.31 and 17.07 (5), shall hold their positions unless  
17 terminated earlier by resignation, disability, or for cause or unless federal  
18 recognition of the officer's commission under 32 USC 323 is refused or withdrawn.  
19 The governor shall remove an officer whose federal recognition is refused or  
20 withdrawn, effective on the date of the loss of federal recognition.

History: 1981 c. 35; 1983 a. 391; 1987 a. 63; 2003 a. 25, 69, 326.

21           **SECTION 45.** 21.18 (4) of the statutes is renumbered 21.10 (6) and amended to  
22 read:

1           21.10 (6) The terms of the deputy adjutants general for army and air shall be  
2           5 years beginning on the first day of the 7th month of the term of the adjutant  
3           general. The deputy adjutants general may be reappointed to successive terms.

4           History: 1981 c. 35; 1983 a. 391; 1987 a. 63; 2003 a. 25, 69, 326.

4           **SECTION 46.** 21.18 (5) of the statutes is renumbered 21.10 (7) and amended to  
5           read:

6           21.10 (7) The adjutant general shall appoint persons to fill vacancies in  
7           positions ~~in~~ on the military staff of the governor under sub. (1). Vacancies on the  
8           military staff of the governor shall be filled by appointment from officers actively  
9           serving in the national guard, except as provided in s. 15.31. Interim vacancies shall  
10          be filled by appointment by the adjutant general for the ~~residue~~ remainder of the  
11          unexpired term.

12          **SECTION 47.** 21.28 of the statutes is renumbered 21.11 and amended to read:

13          **21.11 United States property and fiscal officer. (1)** The adjutant general  
14          shall recommend a candidate for appointment as the ~~United States~~ U.S. property  
15          and fiscal officer for the national guard, subject to the concurrence of the governor,  
16          from federally commissioned officers actively serving in the national guard. The  
17          candidate shall be nominated by the governor, subject to the concurrence of the U.S.  
18          secretary of the army, if the nominee is serving in the army national guard, or the  
19          U.S. secretary of the air force, if the nominee is serving in the air national guard.

20          **(2)** The officer nominated under sub. (1) shall assume the duties of a ~~United~~  
21          States U.S. property and fiscal officer under 32 USC 708, when properly ordered to  
22          active duty by the appropriate U.S. secretary, on the date specified in the order. The  
23          officer shall hold his or her position unless terminated earlier by resignation,



1 disability or for cause and unless federal recognition of the officer's commission  
2 under ~~32 USC 323~~ 10 USC 14902, 14903, or 14905 is refused or withdrawn.

\*\*\*NOTE: Should this reference be added to the earlier reference to 32 USC?

3 **(3)** Any action by the governor to remove the officer appointed under sub. (1)  
4 (2) for cause shall be governed by the federal laws and military regulations governing  
5 removal of an officer for cause and shall be subject to review by the chief of the  
6 national guard bureau and by the U.S. secretary of the army, if the officer is  
7 commissioned by the army national guard, or by the U.S. secretary of the air force,  
8 if the officer is commissioned by the air national guard.

History: 1987 a. 63; 2003 a. 69.

9 **SECTION 48.** 21.30 (title) of the statutes is renumbered 21.12 (title) and  
10 amended to read:

11 **21.12 (title) Chief surgeons; powers and duties.**

12 **SECTION 49.** 21.30 of the statutes is renumbered 21.12 (1) and amended to read:

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

21 **SECTION 50.** 21.32 of the statutes is renumbered 21.12 (2) and amended to read:

22 21.12 **(2)** The chief surgeons for the army and the air national guard shall  
23 provide for ~~such~~ any physical examinations and inoculations of officers, enlistees,

1 and applicants for enlistment in the national guard, as may be prescribed by  
2 department of defense and national guard regulations.

3 History: 1975 c. 94 s. 91 (1); 1975 c. 189, 422; 1981 c. 35; 2003 a. 69.

3 **SECTION 51.** 21.51 of the statutes is renumbered 21.13 and amended to read:

4 **21.13 Discharge of officers.** Any officer may be discharged by the governor  
5 pursuant to the Wisconsin code of military justice or upon resignation or disability  
6 preventing full discharge of the duties of his or her office.

7 History: 1991 a. 316.

7 **SECTION 52.** 21.52 of the statutes is renumbered 21.14 and amended to read:

8 **21.14 Authority to administer oaths.** Any officer of the national guard or  
9 any officer of the U.S. armed forces may administer oaths of enlistment in the  
10 national guard.

11 History: 1979 c. 221.

11 **SECTION 53.** 21.54 of the statutes is renumbered 21.15 and amended to read:

12 **21.15 Resignation of officer.** A commissioned officer may resign ~~the officer's~~  
13 his or her commission by submitting the written resignation to the officer's his or her  
14 immediate commanding officer, in writing, who. The commanding officer shall  
15 promptly forward the same resignation through military channels to the adjutant  
16 general. The governor shall, by order, accept or reject the same resignation, and, if  
17 accepted, fix the effective date of its taking effect. ~~No the~~ resignation shall take effect  
18 ~~except as so ordered.~~

19 **SECTION 54.** 21.15 (title) of the statutes is repealed.

20 **SECTION 55.** 21.155 (title) of the statutes is repealed.

21 **SECTION 56.** 21.19 (3) (b) of the statutes is repealed.

22 **SECTION 57.** 21.19 (6) of the statutes is repealed.

23 **SECTION 58.** 21.19 (7) (a) (intro.) of the statutes is repealed.

24 **SECTION 59.** 21.20 of the statutes is repealed.

1 **SECTION 60.** Subchapter III of chapter 21 [precedes 21.20] of the statutes is  
2 created to read:

3 **CHAPTER 21**  
4 **SUBCHAPTER III**  
5 **MILITARY PROPERTY**

6 **SECTION 61.** 21.03 of the statutes is renumbered 21.20 and amended to read:

7 **21.20 Distribution of arms military property.** The governor may receive  
8 and distribute, ~~according to law,~~ the quota of arms and military equipment which  
9 ~~property that~~ the state may receive receives from the U.S. government of the United  
10 States under the provisions of any acts of congress federal laws providing for arming  
11 and equipping of the national guard and the state defense force.

History: 1987 a. 63 s. 13.

12 **SECTION 62.** 21.50 (title) of the statutes is renumbered 21.21 (title).

13 **SECTION 63.** 21.21 (1) of the statutes is created to read:

14 **21.21 (1)** In this section, “money” means funds in the custody and under the  
15 control of the department.

16 **SECTION 64.** 21.50 (1), and (2) of the statutes is renumbered 21.21 (1) (a) and  
17 (b), and amended to read:

18 **21.21 (1) (a)** Each commanding officer ~~to whom state or federal~~ who is issued  
19 military property is issued may be required to execute to the state a bond, with such  
20 sureties and in such form and amount as the adjutant general shall approve,  
21 conditioned for the faithful preservation and care of all such arms, accoutrements  
22 moneys, or stores that the officer received, to indemnify the state against loss by  
23 misuse or misapplication by the officer or any other person; to or money shall account  
24 for all of the same according to law, and to the property and money. deliver the same

1 ~~the property and money to any officer lawfully entitled thereto, on demand to receive~~  
2 ~~them, and to pay all sums lawfully appraised for all losses or damages to that~~  
3 ~~property or money.~~

4 (b) The unit commander is the legal custodian of the money, and military  
5 ~~property and effects of any company-sized unit or detachment of the national guard,~~  
6 ~~whether said the money or property is owned by said the unit or detachment or its~~  
7 ~~members collectively, or has been issued to it or any of its officers, for its use by state~~  
8 ~~or United States authority, and. The unit commander may sue for and recover~~  
9 ~~possession of the same money or military property, whenever it is wrongfully~~  
10 ~~withheld from the unit commander's custody or the custody of the unit or~~  
11 ~~detachment.~~

\*\*\*\*NOTE: I removed "detachment" because we are using "unit" throughout this chapter.

12 **SECTION 65.** 21.56 of the statutes is renumbered 21.21 (2) and amended to read:

13 **21.21 (2)** (a) All state-owned military property or money issued to any officer  
14 or armory facility manager shall be audited annually as a part of the annual  
15 inspection of federal property accounts. When ~~damages~~ damage, other than ~~fair~~  
16 reasonable wear and tear, or loss of state-owned property is discovered, the adjutant  
17 general shall appoint a surveying officer to determine the cause and fix blame. Upon  
18 review, the adjutant general may hold responsible individuals pecuniarily  
19 financially liable, ~~and may require a depreciated payment, as determined by the~~  
20 ~~adjutant general, into the state treasury.~~ If it is determined that the property or  
21 money was damaged, destroyed or lost without fault or neglect on the part of those  
22 responsible, all concerned may shall be relieved of liability.

1 (b) Whenever any state-owned military property becomes unsuitable,  
2 unserviceable, or no longer required for military purposes, it shall be disposed of as  
3 surplus property subject to s. 16.72 (4) and (5).

4 History: 1971 c. 100 s. 23; 1975 c. 189; 1989 a. 31.

**SECTION 66.** 21.57 of the statutes is renumbered 21.21 (3) and amended to read:

5 **21.21 (3)** (a) ~~Whenever any~~ When an officer who is responsible for state military  
6 property or money is separated or reassigned, all military property or money in the  
7 officer's possession or for which the officer is responsible shall ~~be delivered to~~ become  
8 the responsibility of the person ~~designated~~ the adjutant general designates to receive  
9 the property ~~by the adjutant general~~ or money. No separation or reassignment shall  
10 be effective until all property accounts have been settled.

11 (b) ~~In case of the death of any~~ If an officer having custody of state military  
12 property or money dies, the next in command shall immediately take charge of such  
13 the property or money and deliver ~~the same~~ the property or money to the person the  
14 adjutant general appointed to receive the property ~~by the adjutant general~~ or money.

15 History: 1975 c. 189, 421.

**SECTION 67.** 21.15 of the statutes is renumbered 21.21 (4) (a) and amended to  
16 read:

17 **21.21 (4)** (a) No person may retain at any time any ~~arms, equipment or military~~  
18 ~~stores of any kind belonging to the state or any federally owned property issued to~~  
19 ~~the state~~ property or money, unless the property or money has been lawfully issued  
20 to the person pursuant to law and the proper authority permits the person to retain  
21 the property or money in the discharge of a public duty. No person may use ~~any public~~  
22 ~~arms, equipment, clothing or military stores belonging to the state, either as owner~~

1 ~~or bailee property or money~~, for the person's unauthorized private use. Any person  
2 violating this ~~section~~ paragraph shall forfeit not less than \$50 nor more than \$200.

History: 1979 c. 221.

\*\*\*\*NOTE: The drafting subcommittee wanted to highlight for the special committee's attention the level of penalties both in this provision and in current s. 21.155. Those penalty levels were established in 1980. Chapter 221, laws of 1979 (the 1980 Budget Review Act), changed the penalties for violating s. 21.15 from a fine of not more than \$200 to the current language. In addition, chapter 221 also changed the penalty for violating s. 21.115 from imprisonment for not more than 6 months or a fine of not more than \$100 to the current language.

3 **SECTION 68.** 21.155 of the statutes is renumbered 21.21 (4) (b) and amended  
4 to read:

5 **21.21 (4) (b)** ~~No~~ A person who possesses under the laws of this state ~~any arms,~~  
6 ~~equipment or other military property may willfully neglect or refuse~~ or money, after  
7 ~~the adjutant general makes lawful demand is made~~ for the return of the property ~~by~~  
8 ~~order of the governor to~~ or money shall return the property promptly. No person may  
9 knowingly resist any officer who is lawfully taking possession of ~~such arms,~~  
10 ~~equipment, or other~~ the military property or money. Any person violating this  
11 ~~section~~ paragraph shall forfeit not less than \$50 nor more than \$200.

History: 1979 c. 221.

12 **SECTION 69.** 21.04 of the statutes is renumbered 21.22 and amended to read:

13 **21.22 Camp Williams. (1)** The state ~~camp grounds~~ facility near Camp  
14 Douglas, Juneau County, shall be known as "Camp Williams". The officer in charge  
15 of Camp Williams shall have ~~at said camp the police~~ arrest powers possessed by  
16 ~~officials at state hospitals, as provided in s. 46.058 (2) for a violation of state law, a~~  
17 local ordinance, or a provision of the Wisconsin code of military justice.

\*\*\*\*NOTE: Do we want to give arrest powers for a violation of the federal military code, or is that authority only given by the feds?

1           **(2)** The adjutant general may grant to the federal government the right to use  
2 any area of Camp Williams upon such conditions as that the adjutant general deems  
3 advisable.

4           **(3)** In memory of 1st lieutenant Jerome A. Volk, the first Wisconsin air national  
5 guard pilot killed in combat during the Korean conflict, so much of Camp Williams  
6 as is under lease to the federal government for use of the air national guard shall be  
7 known as “Volk Field” during the time the property remains under lease to the U.S.  
8 government ~~of the United States.~~

History: 1979 c. 221 s. 2202 (37); 1991 a. 316.

9           **SECTION 70.** 21.23 (title) of the statutes is created to read:

10           **21.23(title) Facilities and lands.**

11           **SECTION 71.** 21.61 of the statutes is renumbered 21.23 (1) (a) and amended to  
12 read:

13           **21.23 (1) (a)** ~~The governing body of any city, village, town or county political~~  
14 ~~subdivision or the federally recognized Indian tribe or band~~ in which one or more  
15 companies units of the national guard ~~may be~~ is located may erect build or purchase  
16 a suitable armory for the purpose of drill and for the safekeeping of the ~~arms,~~  
17 ~~equipment, uniforms, and other military property furnished by the state, and for~~  
18 ~~public meetings and conventions, when such~~ that use will not interfere with the use  
19 of such the building by the national guard. ~~Plans~~ The adjutant general shall inspect  
20 and approve plans and specifications and the state building commission shall  
21 approve plans and specifications for such the armories ~~shall be inspected and~~  
22 ~~approved by the governor and the adjutant general who.~~ The adjutant general and  
23 the department of administration shall file with the ~~governing body of the city,~~  
24 ~~village, town, or county political subdivision or the federally recognized Indian tribe~~

1 ~~or band~~ a certificate of such inspection and approval ~~prior to~~ before the erection  
2 thereof construction of an armory.

3 (b) ~~The governing body of any city, village, town or county~~ political subdivision  
4 ~~or the federally recognized Indian tribe or band~~ in which any ~~such company~~ unit of  
5 the national guard may be located may purchase land and build armories in the same  
6 manner as the ~~governing body~~ political subdivision or the federally recognized  
7 Indian tribe or band is now authorized by law to build other ~~city, village, town or~~  
8 ~~county buildings, and when~~ . When unable to agree upon the price of land with its  
9 owner, the political subdivision or the federally recognized Indian tribe or band may,  
10 ~~if in its opinion necessary,~~ appropriate land for the purpose of building armories in  
11 the same manner as the ~~governing body~~ political subdivision or the federally  
12 recognized Indian tribe or band is now authorized by law to appropriate real estate  
13 for other ~~city, village, town or county~~ buildings. ~~In case however~~ If a city, village, town  
14 ~~or county shall have~~ political subdivision or the federally recognized Indian tribe or  
15 band aided in the erection building of an armory and the company or companies of  
16 the national guard for which the armory was erected ~~shall at any time be~~ built is  
17 ~~disbanded, then~~ the armory shall become the property of the ~~city, village, town or~~  
18 ~~county in which~~ political subdivision or the federally recognized Indian tribe or band  
19 that aided in the building of the armory is erected.

20 (c) ~~Such~~ The armory, when erected built or purchased, shall be under the control  
21 and charge of the governor, the adjutant general, and the commanding officer of the  
22 ~~company or companies~~ unit of the national guard for which it has been provided. The  
23 commanding officer shall ~~cause to be deposited therein,~~ deposit in the armory all  
24 arms, uniforms, and equipment military property received from the governor and the  
25 adjutant general ~~who~~ . The adjutant general may make such rules as they deem



1 proper for the observance of all officers and persons having charge of such the  
2 armories or occupying any part thereof of the armories.

3 (d) Whenever any ~~county, city, town or village erects~~ political subdivision or a  
4 federally recognized Indian tribe or band constructs a building as a memorial to the  
5 ~~soldiers, sailors and marines~~ members of the U.S. armed forces or national guard  
6 who served in any war or armed conflict of the United States and makes provision  
7 ~~therein~~ in the memorial for the accommodation of one or more companies of the  
8 national guard having no regularly established armory, the ~~governor, adjutant~~  
9 ~~general or other state officers having control of armory accommodations and~~  
10 ~~regulations~~ shall, whenever practicable, rent the armory provided in such the  
11 memorial building for the use of those companies of the national guard.

History: 1975 c. 189; 1983 a. 27; 1993 a. 246.

12 **SECTION 72.** 21.616 of the statutes is renumbered 21.23 (3) and amended to  
13 read:

14 **21.23 (3)** The department of military affairs is authorized and directed may,  
15 when contributions ~~therefor~~ are made available by the federal government under the  
16 ~~national defense facilities act of 1950 or any act or acts amendatory thereof or~~  
17 ~~supplementary thereto~~ federal law, to expand, rehabilitate, equip, or convert  
18 facilities owned by the state and to acquire, construct, expand, rehabilitate, equip,  
19 or convert additional facilities. The department of military affairs may on the part  
20 of the state accept such the federal contributions in the manner prescribed by federal  
21 law or regulation, and may accept on behalf of the state the lawful terms and  
22 conditions ~~thereof~~ of a federal contribution. The department of military affairs shall  
23 ~~take such steps and have all the functions and~~ has the duties and powers necessary,  
24 consistent with the ~~appropriation therefor,~~ to acquire contributions under any such

1 federal act law and to undertake and complete ~~any such a~~ project in conformity with  
2 the applicable federal act law and this section subsection.

3 **SECTION 73.** 21.17 of the statutes is renumbered 21.24 and amended to read:

4 **21.24 Encroachment on military areas and interference with military**  
5 **personnel.** (1) The officer in charge of any area used or to be used for military  
6 purposes may ~~cause the area to be marked in such a manner so as~~ mark the area to  
7 warn against encroachment by unauthorized persons, but may not ~~to~~ unnecessarily  
8 obstruct travel on any public highway. No person may encroach upon or enter ~~upon~~  
9 the area without the consent of the officer.

10 (2) No person may ~~intercept, molest, abuse or otherwise~~ interfere with any  
11 member of the national guard or ~~any other military force organized under the laws~~  
12 ~~of this state~~ defense force while the member is in the performance of military duty.

13 (3) Any person who violates sub. (1) or (2) shall forfeit not less than \$50 nor  
14 more than \$200. The officer in charge or a designee may arrest and detain the person  
15 for such reasonable time as may be necessary to deliver the person to civil  
16 authorities.

History: 1975 c. 94 s. 91 (1); 1975 c. 189, 199, 422; 1979 c. 221.

17 **SECTION 74.** 21.21 of the statutes is repealed.

18 **SECTION 75.** 21.25 of the statutes is repealed.

19 **SECTION 76.** 21.26 (title) of the statutes is repealed.

20 **SECTION 77.** 21.32 (title) of the statutes is repealed.

21 **SECTION 78.** 21.33 (title) of the statutes is repealed.

22 **SECTION 79.** Subchapter IV of chapter 21 [precedes 21.30] of the statutes is  
23 created to read:

24 **CHAPTER 21**

## 1 SUBCHAPTER IV

## 2 NATIONAL GUARD AND STATE DEFENSE FORCE

3 **SECTION 80.** 21.01 of the statutes is renumbered 21.30 and amended to read:4 **21.30 Composition of national guard. (1)** The organized militia of this  
5 state shall be known as the “Wisconsin national guard” and shall consist of members  
6 ~~appointed~~ commissioned or enlisted ~~therein~~ in accordance with federal law or  
7 regulations governing ~~or pertaining to~~ the national guard.8 **(2)** The Wisconsin national guard shall ~~be organized into~~ consist of the army  
9 national guard and air national guard units, and ~~“national guard” when used in this~~  
10 ~~chapter, unless the context otherwise requires, means both the Wisconsin army~~  
11 ~~national guard and the Wisconsin air national guard.~~

History: 1975 c. 189; 1983 a. 27; 2003 a. 69.

12 **SECTION 81.** 21.05 of the statutes is renumbered 21.31 and amended to read:13 **21.31 Term of enlistment; requirements and discharge.** Every person  
14 who enlists or receives a commission in the national guard shall serve for the term  
15 prescribed and satisfy the physical, educational and training requirements  
16 prescribed by the U.S. national guard bureau. Enlistees in the national guard shall  
17 be discharged as provided in the laws and regulations of the U.S. national guard.18 **SECTION 82.** 21.06 of the statutes is renumbered 21.32 and amended to read:19 **21.32 Exemptions from certain county duties.** Every member of the  
20 national guard or state military forces shall be defense force is exempt from service  
21 on any body of county residents summoned by the sheriff to assist in preserving the  
22 peace.

History: 1977 c. 318; 1979 c. 110.

23 **SECTION 83.** 21.12 of the statutes is renumbered 21.33 and amended to read:

1           **21.33 Exemption from civil authority.** During the time the national guard  
2 or state military forces are defense force is performing military duty pursuant to  
3 ~~proper~~ under orders issued by the governor or ~~by the governor's authority~~ adjutant  
4 general, all of its members thereof, while going to, remaining at, or returning from  
5 a place of duty shall be are exempt from arrest or service of any process issued by a  
6 civilian court. In any civil or criminal prosecution against any member arising out  
7 of the member's performing military duty, it shall be a defense that the member was  
8 acting in good faith or ~~pursuant to any~~ under a lawful military order. ~~Any such~~ The  
9 order shall be deemed ~~prima facie~~ considered lawful unless shown to be unlawful.

History: 1991 a. 316.

10           **SECTION 84.** 21.07 of the statutes is renumbered 21.34 and amended to read:

11           **21.34 Decorations and awards.** The adjutant general may prescribe  
12 decorations and awards for the national guard and the state defense force, ~~the.~~ The  
13 adjutant general shall adopt rules establishing the form and issue thereof made  
14 under rules adopted by the adjutant general and approved by the governor issuance  
15 of those decorations and awards.

History: 1975 c. 189; 1981 c. 207; 1983 a. 27; 1987 a. 63 s. 13; 2003 a. 69.

16           **SECTION 85.** 21.09 of the statutes is renumbered 21.35 and amended to read:

17           **21.35 Training; special schools; pay and allowances.** The governor or  
18 adjutant general may order the national guard or state defense force to assemble for  
19 training at any military establishment ~~within or without the state~~ specified and  
20 approved by the department of defense and fix the dates and places thereof, ~~and the~~  
21 of that training. The governor or adjutant general may order members of the  
22 national guard or state defense force, at their option, to attend ~~such~~ federal or state  
23 authorized special schools for military training as may be authorized by the state or  
24 federal government. ~~For such training and attendance at special schools, members~~

1 The governor or adjutant general shall determine the amount that the members of  
2 the national guard or state defense force shall receive such as pay and allowances as  
3 the federal government or the governor may authorize for the training.

History: 1991 a. 316.

4 **SECTION 86.** 21.11 (1) and (2) of the statutes are renumbered 21.36 (1) and (2)  
5 and amended to read:

6 **21.36 Call to state active service duty. (1)** In (a) The governor may order  
7 into active duty members of the national guard under the following circumstances:

8 1. In case of war, insurrection, rebellion, riot, invasion or resistance to the  
9 execution of the laws of this state or of the United States; in,

10 2. In the event of public disaster resulting from flood, conflagration or fire,  
11 tornado; in, or other natural disaster.

12 3. In order to assess damage or potential damage and to recommend responsive  
13 action as a result of natural or man-made events; or upon,

14 4. Upon application of any marshal of the United States, the president of any  
15 village, the mayor of any city, the chairperson of any town board, or any sheriff in this  
16 state, the governor may order into active service all or any portion of the national  
17 guard.

18 (b) If the governor is absent, or cannot be immediately communicated with, any  
19 such civil officer of the persons listed in par. (a) 4. may, if the officer deems the  
20 occasion so is urgent, make such application, which shall be in writing, to request  
21 assistance from the commanding officers of any company, battalion or regiment, who  
22 commander of any national guard unit. If the danger is great and imminent, the  
23 commander may, upon approval of the adjutant general, if the danger is great and  
24 imminent obtaining approval is feasible, order out that officer's command to the aid

1 ~~of such civil officer unit to provide assistance.~~ Such The order shall be delivered to  
 2 ~~the commanding officer, who shall immediately communicate the order to each, and~~  
 3 ~~every subordinate officer, and every company commander receiving the same~~ who  
 4 ~~shall immediately communicate the substance thereof to each member~~ of the order  
 5 ~~to members~~ of the company, ~~or if any such unit.~~ If a member cannot be found, a notice  
 6 ~~in writing containing the substance of such~~ the order, in writing, shall be left at the  
 7 ~~last and usual member's~~ place of residence ~~of such member~~ with some person of  
 8 suitable age and discretion, to whom ~~its~~ the order's contents shall be explained.

\*\*\*\*NOTE: Instead of all of this language about when the gov. may call members into active duty, could we instead reference the emergency proclamation language in s. 166.03 (1) (b)?

9 **(2)** Any commissioned officer or enlisted member of the national guard who  
 10 fails to carry out orders or fails to appear at the time or place ordered as provided in  
 11 sub. (1) shall be punished under the Wisconsin code of military justice. Any person  
 12 who ~~advises or endeavors~~ attempts to persuade an officer or soldier a national guard  
 13 member not to refuse or neglect to appear at such place or obey such order an order  
 14 issued under sub. (1) shall forfeit not less than \$200 nor more than \$1,000.

\*\*\*\*NOTE: Does this apply to a parent or spouse of a member who emotionally pleads with the member to not obey the order?

History: 1979 c. 221; 1991 a. 316; 1993 a. 246; 1999 a. 62, 136; 2005 a. 22.

15 **SECTION 87.** 21.37 of the statutes is amended to read:

16 **21.37 Uniform of Wisconsin national guard.** The uniform of the national  
 17 guard shall be that as prescribed by regulations for the corresponding branch of the  
 18 ~~United States~~ U.S. armed forces.

19 **SECTION 88.** 21.13 of the statutes is renumbered 21.38 and amended to read:

20 **21.38 Defense of members of guard; payment of judgments.** (1) (a) If  
 21 any state resident who is a member of a national guard of any state or of the state

1 defense force or any state resident who is a member of the national guard of any state  
2 is prosecuted by any civil or criminal action for any act performed by ~~the member~~  
3 ~~while in the performance of military duty and in pursuance of military duty~~ within  
4 the scope of his or her employment as a member, ~~the action against governor, upon~~  
5 recommendation of the adjutant general, shall appoint counsel to defend the member  
6 ~~the member shall be defended by counsel, which may include the attorney general,~~  
7 ~~appointed for that purpose by the governor upon the recommendation of the adjutant~~  
8 ~~general. The governor may appoint the attorney general to defend the member. The~~  
9 ~~adjutant general shall make the recommendation~~ recommend that counsel be  
10 appointed if the act performed by the member was in the line of duty.

\*\*\*\*NOTE: The drafting committee wanted to highlight for the special committee the change regarding legal defense of National Guard and State Defense Force members for actions taken in the line of duty. The current provision applies to state residents who are members of the National Guard of any state or of the Wisconsin State Defense Force. This draft also includes persons who are members of the Wisconsin National Guard or the Wisconsin State Defense Force who are not residents of Wisconsin.”

11 (b) The costs and expenses of ~~any such~~ the defense under par. (a) shall be  
12 audited by the department of administration and ~~paid out of the state treasury and~~  
13 ~~charged to the appropriation under s. 20.455 (1) (b) and if.~~ If the jury or court finds  
14 that the member ~~of the national guard~~ against whom the action is brought acted  
15 within the scope of his or her employment as a member, the judgment as to damages  
16 entered against the member shall also be paid by the state.

17 (2) Any civil action or proceeding brought against a member ~~of a national guard~~  
18 ~~or the state defense force~~ under sub. (1) is subject to ss. 893.82 and 895.46.

History: 1977 c. 65; 1979 c. 34 s. 2102 (37) (a); 1979 c. 221; 1981 c. 20 s. 2202 (17) (a); 1985 a. 332 s. 253; 1987 a. 63 s. 13; 2003 a. 69.

19 **SECTION 89. 21.43** of the statutes is renumbered 21.39 and amended to read:  
20 **21.39 Commissions and rank.** The governor shall appoint and issue  
21 commissions to all officers ~~whose appointments are approved by the governor.~~ Every

**SECTION 89**

1 commission shall be ~~countersigned~~ signed by the secretary of state and attested by  
2 the adjutant general and A commission shall continue as provided by law unless  
3 terminated earlier by resignation, disability, or for cause or unless federal  
4 recognition of the officer's commission under 32 USC 323 is refused or withdrawn.  
5 Each ~~officer so commissioned~~ officer shall take the oath of office prescribed by article  
6 IV, section 28, of the constitution and file it with the department of ~~military affairs~~  
7 ~~the oath of office prescribed by article IV, section 28, of the constitution.~~ All  
8 commissioned officers shall take rank according to the date assigned them by their  
9 commissions, and when 2 of the same grade rank from the same date, their rank shall  
10 be determined by length of creditable service in the national guard ~~creditable for pay,~~  
11 and if of equal creditable service then by lot.

History: 1983 a. 27, 192.

12 **SECTION 90.** 21.47 of the statutes is renumbered 21.40 and amended to read:  
13 **21.40 Examinations for promotion or appointments.** The governor or  
14 adjutant general may order any subordinate ~~officer or~~ person nominated or  
15 recommended for promotion or appointment in the national guard or state defense  
16 force to be examined by any competent officer or board of officers, designated ~~in~~ on  
17 orders for that purpose, as to that person's qualifications for the office to which that  
18 person ~~may is to be recommended or appointed, and or promoted.~~ The governor or  
19 adjutant general may take such action on the report of such ~~the~~ the examining officer or  
20 board of officers as ~~the governor deems~~ he or she considers to be for the best interests  
21 of the ~~service~~ national guard or state defense force. The governor or adjutant general  
22 may also require the person to take the physical examination provided for admission  
23 to the ~~United States~~ U.S. army or air force.

History: 1983 a. 27; 1991 a. 316.

24 **SECTION 91.** 21.48 of the statutes is renumbered 21.41 and amended to read:



1           **21.41 Pay. (1)** ~~Each Every officer and enlisted person of on state active duty~~  
2           ~~in the national guard on active duty in the state under orders of the governor on a~~  
3           ~~state pay basis shall receive the base pay and allowances of an officer or enlisted~~  
4           ~~person of equal rank in the corresponding branch of the U.S. armed forces except that~~  
5           ~~the base pay so provided shall not be less than \$50 ?? per day.~~

      \*\*\*NOTE: Is the \$50 amount appropriate?

6           **(2)** ~~The governor may, by orders, duplicates of which shall be filed with the~~  
7           ~~secretary of state, fix the pay of any member of the governor's staff military staff of~~  
8           ~~the governor, or other members of the national guard or state defense force for any~~  
9           ~~special service under orders state active duty.~~

10          **(3)** ~~The governor may order, with their consent, to state active duty in the~~  
11          ~~department of military affairs, any departmental officers of the governor's staff,~~  
12          ~~including the adjutant general and the deputy adjutants general, and while so a~~  
13          ~~member of his or her military staff, as specified in s. 21.10 (1), who is a state~~  
14          ~~employee. The assigned the officers shall receive the pay, but not the allowances, of~~  
15          ~~an officer of equal grade in the U.S. armed forces of the United States.~~

History: 1973 c. 279; 1975 c. 94 s. 91 (1); 1975 c. 382, 422; 1981 c. 35, 129; 1991 a. 316; 2003 a. 69.

      \*\*\*NOTE: Do we need the same s. 21.10 (1) reference in sub. (2)?

16          **SECTION 92.** 21.49 of the statutes is renumbered 21.42 and amended to read:

17          **21.42 Educational benefits. (1) DEFINITIONS.** In this section:

18          ~~(ae)~~ “Department” means the department of military affairs.

19          ~~(am)~~ (a) “Full-time study” means a credit load of 12 or more academic credits  
20          in an academic term.

21          ~~(ar)~~ (b) “Guard member” means any person who is a member of the national  
22          guard.

23          ~~(b)~~ (c) “Qualifying school” means any of the following:

1           1. The extension division and any campus of the University of Wisconsin  
2 System.

3           ~~1g.~~ 2. A public institution of higher education under the Minnesota–Wisconsin  
4 student reciprocity agreement under s. 39.47.

5           ~~1m.~~ 3. A public institution of higher education under an interstate agreement  
6 under s. 39.42.

7           ~~2.~~ 4. Except as provided in subds. 1g. and 1m., an accredited institution of  
8 higher education located in this state, as defined in 20 USC 1002.

9           ~~3.~~ 5. Any technical college established under ch. 38.

10           (e) (d) “Tuition grant” means any tuition cost reimbursement payment made  
11 by the department under sub. (3).

12           **(2) ELIGIBLE GUARD MEMBER.** Eligibility for a tuition grant under this section  
13 is limited to a guard member who is not:

14           (a) An officer.

15           (b) An individual with a baccalaureate degree or its equivalent.

16           ~~(d)~~ (c) Failing to meet the national guard service eligibility criteria established  
17 by the department or absent without leave for more than 9 unit training assemblies.

18           (e) (d) Delinquent in child support or maintenance payments and who does not  
19 owe past support, medical expenses or birth expenses, as established by the  
20 appearance of the guard member’s name on the statewide support lien docket under  
21 s. 49.854 (2) (b), unless the guard member provides to the department a payment  
22 agreement that has been approved by the county child support agency under s. 59.53  
23 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a).

24           ~~(f)~~ (e) Failing to achieve a minimum grade point average of 2.0 or an average  
25 grade of “C” for the semester for which reimbursement is requested.

1           ~~(2m)~~ **(3)** INFORMATION REGARDING ATTENDANCE. The department shall  
2 promulgate by rule the number of days after commencement of a course that a guard  
3 member shall provide the department with the following information regarding his  
4 or her intent to ~~seek reimbursement for a course~~ apply for a tuition grant under this  
5 section:

6           (a) The guard member's name.

7           (b) The qualifying school that the guard member is attending.

8           (c) Whether the guard member is enrolled full time or part time at the  
9 qualifying school.

10           (d) An estimate of the tuition grant that will be claimed after the completion  
11 date of the course.

12           ~~(3)~~ **(4)** TUITION GRANTS. (a) Any eligible guard member upon satisfactory  
13 completion of a full-time or part-time course in a qualifying school ~~is eligible for~~ may  
14 apply for a tuition grant equal to 100% of the actual tuition charged by the school or  
15 100% of the maximum resident undergraduate tuition charged by the University of  
16 Wisconsin-Madison for a comparable number of credits, whichever amount is less.

17           (b) Application for tuition grants shall:

18           1. Be submitted to the department for approval of payment no later than 60  
19 days after the completion date of the course;

20           2. Contain such information and be in such form as the department requires  
21 to establish that the applicant qualifies for the grant; and

22           3. Contain the signatures of both the guard member claiming the grant and a  
23 representative of the school, certifying that the member has satisfactorily completed  
24 the course and has achieved the minimum grade point average or grade, as required  
25 under sub. (2) (f).

1 (c) Except as provided under par. (d), upon determination that the applicant  
2 is eligible to receive the payment, the department shall make payment of the tuition  
3 grant to the applicant in the amount determined under par. (a).

4 (d) Tuition grants under this section shall be paid out of the appropriation  
5 under s. 20.465 (2) (a).

6 ~~(3m)~~ **(5)** REPAYMENT OF GRANTS. The department shall require a guard member  
7 who has received a tuition grant under this section to repay the amount of the tuition  
8 grant to the department if the national guard member, ~~on or after September 1, 2001,~~  
9 is separated from the national guard for misconduct, as defined in the rules and  
10 regulations of the national guard, including being absent without leave for more  
11 than 9 unit training assemblies. The department may elect to collect the amount  
12 owed under this subsection through the tax intercept program under s. 71.93.

13 ~~(4)~~ **(6)** LIMITATIONS. (a) No guard member is eligible for ~~benefits~~ a tuition grant  
14 under this section for more than 120 credits of part-time study or 8 full semesters  
15 of full-time study or the equivalent thereof.

16 (b) If the U.S. congress establishes an active draft after July 1, 1977, no new  
17 tuition grants may be authorized under this section. The department shall  
18 determine if an active draft has been established. Any termination of the tuition  
19 grant program under this paragraph shall allow persons receiving grants prior to the  
20 establishment of an active draft to receive full benefits subject to sub. (3) (d) and par.  
21 (a).

22 (c) No guard member may receive a tuition grant under sub. (3) for any  
23 semester in which he or she received a payment under s. 45.20 (2).

History: 1977 c. 29, 418; 1981 c. 20; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269; 1993 a. 399; 1995 a. 19; 1995 a. 27, ss. 1219t to 1223, 9127 (1); 1995 a. 404; 1997 a. 27, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33, 69, 83; 2005 a. 22, 25.

24 **SECTION 93. 21.42 (6) (d) of the statutes is created to read:**

1           21.42 **(6)** (d) No guard member may receive a tuition grant unless he or she is  
2 a member in good standing in the national guard at the time of completion of the  
3 course.

4           **SECTION 94.** 21.35 of the statutes is renumbered 21.43 and amended to read:

5           **21.43 Federal laws and regulations; no No discrimination.** The  
6 ~~organization, armament, equipment, and discipline of the national guard shall be~~  
7 ~~that prescribed by federal laws or regulations; and the governor may by order perfect~~  
8 ~~such organization, armament, equipment, and discipline, at any time, so as to~~  
9 ~~comply with such laws and regulations insofar as they are consistent with the~~  
10 ~~Wisconsin code of military justice. Notwithstanding any rule or regulation~~  
11 ~~prescribed by the federal government or any officer or department thereof, no No~~  
12 ~~person, otherwise qualified, may be denied membership in the national guard or~~  
13 ~~state defense force because of sex, color, race, creed, or sexual orientation and no~~  
14 ~~member of the national guard or state defense force may be segregated within the~~  
15 ~~national guard or state defense force on the basis of sex, color, race, creed, or sexual~~  
16 ~~orientation. Nothing in this section prohibits separate facilities for persons of~~  
17 ~~different sexes with regard to dormitory accommodations, public toilets, showers,~~  
18 ~~saunas, and dressing rooms.~~

19           **SECTION 95.** 21.36 (1) of the statutes is renumbered 21.44 and amended to read:

20           **21.44 Rules of discipline** The applicable rules of discipline and the  
21 regulations of the U.S. armed forces of the U.S. shall, ~~so far as the same are~~  
22 ~~applicable,~~ constitute the rules of discipline and the regulations of the national  
23 guard; ~~the .~~ The rules and uniform code of military justice established by congress  
24 and the department of defense for the armed forces shall be adopted so far as they  
25 are applicable and consistent with the Wisconsin code of military justice for the

1 government of the national guard, ~~and the~~ . The system of instruction and the drill  
2 regulations prescribed for the different arms and corps of the armed forces of the U.S.  
3 shall be followed in the military instruction and practice of the national guard, and  
4 the use of any other system is forbidden.

5 **SECTION 96.** 21.025 of the statutes is renumbered 21.45 and 21.45 (1), (2) (a),  
6 (c), and (d). (3) to (6), and (8) to (11n), as renumbered, are amended to read:

7 **21.45 State defense force authorized. (1) AUTHORITY AND NAME.** The  
8 adjutant general may establish a plan for organizing a military force to be known as  
9 the ~~Wisconsin state defense force~~ “state defense force”. The ~~governor, or adjutant~~  
10 ~~general~~ if designated by the governor, may organize the ~~Wisconsin~~ state defense force  
11 ~~under the plan, which may include an aviation unit,~~ if all or part of the national guard  
12 is called into the ~~service of the United States~~ U.S. active duty. It ~~The~~ state defense  
13 force shall be a uniformed force distinct from the national guard, ~~uniformed, and~~  
14 composed of ~~officers, commissioned or assigned~~ officers, and of enlisted personnel  
15 who volunteer for service. ~~Membership in the Wisconsin state defense force may not~~  
16 ~~include any~~ A person who is on active duty in the active military U.S. armed forces,  
17 including the active reserve components, may not serve in the state defense force.  
18 ~~Persons~~ A person in the retired or inactive reserve may serve in the ~~Wisconsin~~ state  
19 defense force.

20 **(2) ORGANIZATION; RULES AND REGULATIONS.** (a) The ~~governor or adjutant~~  
21 ~~general, if designated by the governor,~~ may prescribe rules and regulations ~~not~~  
22 ~~inconsistent~~ consistent with this section governing the enlistment, organization,  
23 administration, equipment, uniforms, maintenance, training, and discipline of such  
24 ~~forces, except that such~~ the state defense force. ~~The~~ rules and regulations, ~~insofar~~  
25 ~~as~~ to the extent the governor deems ~~practicable and desirable~~ considers necessary,

1 shall conform to existing law, ~~and rules and regulations governing and pertaining to~~  
2 the national guard and the . ~~The rules and regulations promulgated thereunder and~~  
3 shall prohibit the acceptance of a member of the state defense force from accepting  
4 any gifts, donations, gratuities, or anything other thing of value by such forces or by  
5 any member of such forces from any person by reason of such membership given to  
6 the member because he or she is a member of the state defense force.

7 (c) Officers and enlistees, while on state active duty under orders of the  
8 governor, in the state defense force shall receive the base pay and allowances of the  
9 identical grade in the United States U.S. army.

10 (d) The adjutant general may organize a ~~cadre force~~ recruitment and training  
11 unit of not more than 12 ~~personnel~~ persons at each ~~state-owned~~ state armory. ~~Each~~  
12 ~~cadre force shall~~ The unit shall establish recruitment lists of persons interested in  
13 becoming members of the state defense force, ~~which may be used to recruit full units~~  
14 ~~for the state defense force in case the national guard is mobilized for active federal~~  
15 ~~duty, and train the persons recruited.~~

16 **(3) REQUISITIONS; ARMORIES; OTHER BUILDINGS.** ~~For the use of such forces, the~~ The  
17 governor or adjutant general, if designated by the governor, may requisition military  
18 property from the federal government such arms and equipment as may be available,  
19 ~~and the .~~ The governor or adjutant general, if designated by the governor, may make  
20 available to the state defense force the facilities of state armories and their  
21 ~~equipment and such~~ military property and other state premises and property as may  
22 ~~be available and may, through the~~ The department of military affairs, may rent or  
23 lease buildings or parts of buildings and grounds for armory purposes or continue in  
24 possession of such those premises leased by the department of military affairs for the  
25 use of the national guard, paying rental therefor ~~out of funds appropriated~~ rent from

1 ~~the appropriation~~ under s. 20.465 (1) (a). All ~~the leases so made shall~~ terminate upon  
2 dissolution of the Wisconsin state defense force regardless of the term provided  
3 ~~therein in the lease~~, unless the premises ~~shall be~~ are needed for national guard  
4 purposes, ~~in which case the~~ . The lease may be assigned by the department of  
5 ~~military affairs~~ to the national guard organization ~~intending~~ that intends to occupy  
6 the premises.

7 (4) ~~USE WITHOUT OUTSIDE THIS STATE. Such forces shall~~ The state defense force  
8 ~~may not be required to serve outside the boundaries of this state except~~ unless one  
9 of the following applies:

10 (a) Upon the request of the governor of another state, the governor of this state  
11 ~~may order any portion or~~ orders all or part of such forces the state defense force to  
12 assist the military or ~~police forces of such~~ a law enforcement agency of the other state  
13 ~~who are actually engaged in defending such other state. Such forces may be recalled~~  
14 ~~by the.~~ The governor at the governor's discretion may recall the state defense force  
15 from the other state at any time.

16 (b) ~~Any organization, unit, or detachment of such forces, upon~~ Upon order of  
17 the officer in immediate command thereof, the state defense force may continue in  
18 fresh pursuit of insurrectionists, saboteurs, ~~enemies~~ terrorists, or enemy forces  
19 ~~beyond the borders of this state into another state until they are apprehended or~~  
20 ~~captured by such organization, unit, or detachment or until the military or police~~  
21 ~~forces~~ a law enforcement agency of the other state or the forces of the United States  
22 have had a reasonable opportunity to take up the pursuit or to ~~apprehend or capture~~  
23 ~~such those persons, provided such~~ . The pursuit may only take place if the other state  
24 ~~shall have given~~ gives authority by law for such that pursuit by such forces of this  
25 state. Any such person who ~~shall be apprehended or~~ is captured in such the other



1 state by ~~an organization, unit, or detachment of the forces of this~~ the state defense  
2 force shall without unnecessary delay be surrendered to the military or ~~police forces~~  
3 law enforcement agency of the state in which the person is taken or to the United  
4 States, ~~but such~~ . The surrender of the person captured shall not constitute a this  
5 state's waiver by ~~this state of its~~ the right to extradite or prosecute ~~such~~ the person  
6 for any crime committed in this state.

7 **(5) PERMISSION TO FORCES OF OTHER STATES.** (a) Any military ~~forces or~~  
8 ~~organization, unit, or detachment thereof,~~ of another state ~~who are~~ that is in fresh  
9 pursuit of insurrectionists, ~~saboteurs, enemies~~ terrorists, or enemy forces may  
10 continue ~~such~~ the pursuit into this state until ~~the~~ a military unit or ~~police forces~~ law  
11 enforcement agency of this state or the ~~forces of the United States have~~ U.S. military  
12 has had a reasonable opportunity to take up the pursuit or ~~to apprehend or capture~~  
13 ~~such persons, and such~~ the persons. The military forces of such unit of the other state  
14 may arrest or capture ~~such~~ those persons ~~within~~ in this state while in fresh pursuit.

15 (b) Any such person who ~~shall be~~ is captured or arrested by the military ~~forces~~  
16 ~~of such other~~ unit of another state while in this state shall without unnecessary delay  
17 be surrendered to ~~the~~ a military unit or ~~police forces~~ law enforcement agency of this  
18 state ~~to be dealt with according to law~~.

\*\*\*\*NOTE: Does this subsection belong here? Hidden in the state defense force is  
permission for another state's military to come into this state. Maybe this should be a  
separate section?

19 **(6) FEDERAL SERVICE.** ~~Nothing in this section shall be construed as authorizing~~  
20 ~~such forces, or any part thereof to be called, ordered, or in any manner~~ No unit of the  
21 state defense force may be drafted, as such, into the U.S. military ~~service of the~~  
22 ~~United States, but no~~ No person shall by reason of enlistment ~~or commission in any~~

1 such forces membership in the state defense force be exempted from U.S. military  
2 service under any law of the United States.

3 ~~(8) (7)~~ DISQUALIFICATIONS. No person shall be commissioned or enlisted in such  
4 forces who is not a citizen of the United States or who has been expelled or  
5 dishonorably discharged from any military or naval organization, of this state, or of  
6 another state, or of the United States may be a member of the state defense force.

\*\*\*NOTE: The drafting committee wanted to highlight this change for the special  
committee. Under current law, only U.S. citizens may serve in the state defense force.  
This bill eliminates that restriction.

7 ~~(9) (8)~~ OATH OF OFFICERS. The oath to be taken by officers commissioned or  
8 enlistees in such forces the state defense force shall be substantially in the form  
9 prescribed for officers of the national guard. The oath shall be filed in the same  
10 manner as is done in the national guard.

11 ~~(10) (9)~~ ENLISTEES. No person shall may be enlisted in the state defense force  
12 for more than one year, but such the enlistment may be renewed. ~~The oath to be~~  
13 ~~taken upon enlistment in such forces shall be substantially in the form prescribed~~  
14 ~~for enlistees of the national guard.~~

15 ~~(11m) (10)~~ RETENTION OF ITEMS OF UNIFORM. (a) Officers and enlistees of the  
16 “Wisconsin State Defense Force” state defense force who have served honorably  
17 therein for a period of at least one year and are active members of their respective  
18 units at the time of its demobilization shall may, upon application to the unit  
19 commander, be permitted to retain the items of their uniform prescribed by the  
20 governor by rule. (b) ~~The~~ If retained, the uniform prescribed under par. (a) may be  
21 worn only on occasions of ceremony. ~~“Occasions of ceremony” means occasions~~  
22 essentially of a military character at which the uniform is more appropriate than  
23 civilian clothing, such as including memorial services, military weddings, military

1 funerals, military balls, military parades, military reunions, and meetings or  
2 functions of associations formed for military purposes, the membership of which is  
3 composed largely or entirely of honorably discharged veterans of the services  
4 members of the U.S. military, national guard, and state defense force.

5 ~~(11n)~~ **(11)** LABOR DISPUTES. The state defense force shall may not be used to  
6 interfere with the orderly process of a labor dispute.

History: 1975 c. 94 ss. 6, 91 (1); 1983 a. 27; 1987 a. 63 ss. 3, 13; 1991 a. 316; 2003 a. 69.

7 **SECTION 97.** 21.42 of the statutes is repealed.

8 **SECTION 98.** 21.50 (3) and (4) of the statutes are repealed.

9 **SECTION 99.** 21.56 (title) of the statutes is repealed.

10 **SECTION 100.** 21.57 (title) of the statutes is repealed.

11 **SECTION 101.** 21.59 of the statutes is repealed.

12 **SECTION 102.** 21.60 of the statutes is repealed.

13 **SECTION 103.** 21.61 (title) of the statutes is repealed.

14 **SECTION 104.** 21.612 of the statutes is repealed.

15 **SECTION 105.** 21.616 (title) of the statutes is repealed.

16 **SECTION 106.** 21.62 of the statutes is repealed.

17 **SECTION 107.** 21.63 of the statutes is repealed.

18 **SECTION 108.** Subchapter V of chapter 21 [precedes 21.50] of the statutes is  
19 created to read:

20 **CHAPTER 21**

21 **SUBCHAPTER V**

22 **RIGHTS OF SERVICE PERSONNEL**

23 **SECTION 109.** 21.70 (title) of the statutes is repealed.

24 **SECTION 110.** 21.72 of the statutes is renumbered 21.50 and amended to read:

1           **21.50 Extension of licenses for service members. (1)** In this section:

2           (a) “License” means any of the following that is issued to an individual and  
3 applies to that individual:

4           1. A license issued under s. 13.63 or a registration issued under s. 13.64.

5           2. An approval specified in s. 29.024 (2g).

6           3. A license issued under s. 48.66 and 48.69.

7           4. A license, certificate of approval, provisional license, conditional license,  
8 certification, certification card, registration, permit, training permit, or approval  
9 specified in s. 49.45 (2) (a) 11., 51.42 (7) (b) 11., 51.421 (3) (a), 146.50 (5) (a) or (b), (6g)  
10 (a), (7), or (8) (a) or (f), 252.23 (2), 252.24 (2), 254.176, 254.178 (2) (a), 254.20 (2), (3),  
11 or (4), 254.64 (1) (a) or (b), 254.71 (2), 255.08 (2) (a), or 343.305 (6) (a) or a permit for  
12 the operation of a campground specified in s. 254.47 (1).

13           5. A business tax registration certificate issued under s. 73.03 (50).

14           6. A license, registration, registration certificate, or certification specified in s.  
15 93.135 (1).

16           7. A license, as defined in s. 101.02 (20) (a).

17           8. A license issued under s. 102.17 (1) (c), 104.07, or 105.05.

18           10. A certificate issued under s. 103.275, 103.91, or 103.92.

19           11. A license or permit granted by the department of public instruction.

20           12. A license or certificate of registration issued by the department of financial  
21 institutions, or a division of it, under ss. 138.09, 138.12, 217.06, 218.0101 to  
22 218.0163, 218.02, 218.04, 218.05, 224.72, or 224.93 or subch. III of ch. 551.

23           13. A permit issued under s. 170.12.

24           14. A certification under s. 165.85.

1           15. A license, permit, or registration issued under ss. 218.0101 to 218.0163,  
2           218.11, 218.12, 218.22, 218.32, 218.41, 218.51, 341.51, 343.305 (6), 343.61, or 343.62.

3           16. A license, registration, or certification specified in s. 299.08 (1) (a).

4           18. A license, permit, certificate, or registration that is granted under chs. 440  
5           to 480.

6           19. A license issued under ch. 562 or s. 563.24.

7           20. A license issued under s. 628.04, 632.68 (2) or (4), or 633.14 or a temporary  
8           license issued under s. 628.09.

9           21. A license to practice law in this state.

10          22. A certificate granted by the technical college system board.

11          (b) “Licensing agency” means a board, examining board, affiliated  
12          credentialing board, office, commissioner, department, or division within a  
13          department that grants or issues a license.

14          (c) “Service member” means a member of a reserve unit of the U.S. armed forces  
15          or a member of a national guard unit of any state who is a resident of Wisconsin.

16          **(2)** Any license that a service member holds, the expiration date of which is  
17          after September 11, 2001, except a license to practice law, does not expire on the  
18          expiration date of the license if, on the expiration date, the service member is on state  
19          active duty under ch. 21 or on active duty in the U.S. armed forces. If the supreme  
20          court agrees, a license to practice law that a service member holds, the expiration  
21          date of which is after September 11, 2001, does not expire on the expiration date of  
22          the license if, on the expiration date, the service member is on state active duty under  
23          ch. 21 or on active duty in the U.S. armed forces. A license extended under this  
24          subsection expires 90 days after the service member is discharged from active duty.

1           **(3)** The licensing agency or the supreme court shall extend or renew a license  
2 extended under sub. (2) until the next date that the license expires or for the period  
3 that such license is normally issued, at no cost to the service member, if all of the  
4 following conditions are met:

5           (a) The service member requests an extension or renewal of the license within  
6 90 days after the service member is discharged from active duty.

7           (b) The service member provides the licensing agency or supreme court with  
8 a copy of a federal or state document that specifies when the service member was  
9 called into active duty and when the service member was discharged from active  
10 duty.

11           (c) The service member meets all the requirements necessary for the extension  
12 or renewal of the license except that the service member need not meet the  
13 requirements that relate to continuing education or training.

14           (d) In the case of a license to practice law, the supreme court agrees to granting  
15 the extension or renewal.

16           **(4)** If a service member's license is renewed or extended under sub. (3) no more  
17 than 180 days before the next date that the license would normally expire, the  
18 licensing agency, or supreme court if it agrees, shall allow the service member to  
19 renew or extend the license without complying with any continuing education or  
20 training requirements if complying with such requirement in the period before the  
21 license expires would cause the service member undue hardship. If a service  
22 member's license is renewed or extended under this subsection, the licensing agency  
23 or supreme court may require the service member to comply with any continuing  
24 education or training requirements within a reasonable time after receipt of the  
25 license.

1           **(5)** The department of military affairs shall assist any service member who  
2 needs assistance to renew or extend a license under this section.

3           **(6)** The department of military affairs shall prepare and distribute to  
4 appropriate agencies and persons, at no cost to those agencies or persons, a brochure  
5 explaining the provisions of this section.

History: 2001 a. 22; 2003 a. 69; 2005 a. 25.

6           **SECTION 111.** 21.74 of the statutes is renumbered 21.51 and amended to read:

7           **21.51 Soldiers and sailors civil relief act; federal service. (1)** In this  
8 section, unless the context indicates otherwise:

9           (a) “Interest and penalties” means interest and penalties accruing on taxes  
10 during the period of military service and 6 months thereafter. In case several owners  
11 jointly own property, other than property held jointly or as marital property with the  
12 spouse of the person in military service, interest and penalties means the  
13 proportionate share of the total interest and penalties commensurate with the equity  
14 in the property of the person in military service.

15           (b) “Person in military service” means any man or woman who is serving on  
16 active duty in the U.S. armed forces, except service on active duty for training  
17 purposes.

18           (c) “Property” means any real estate or personal property belonging to a person  
19 in military service that was acquired prior to the commencement of military service  
20 or that was acquired by descent.

21           (d) “Taxes” means any general taxes or special assessments or tax certificates  
22 evidencing those taxes and assessments not belonging to private buyers.

23           **(2)** To supplement and complement the provisions of 50 App. USC 501, and to  
24 afford and obtain greater peace and security for persons in military service, the

1 enforcement of certain tax obligations or liabilities that may prejudice the property  
2 rights of persons in military service may be temporarily suspended as provided in  
3 this section.

4       **(3)** Any person while in the military service of the United States or within 6  
5 months after terminating service, or the person's agent or attorney during that  
6 period, may petition the circuit court of any county in which the person owns  
7 property for relief under this section. Upon filing of the petition the court shall make  
8 an order fixing the time of hearing and requiring the giving of notice of the hearing.  
9 If after the hearing the court finds that the person is, or within 6 months next  
10 preceding the filing of the petition was, in the military service of the United States  
11 and owns property within the county on which taxes have fallen or will fall due, and  
12 that the person's ability to pay the taxes has been materially adversely affected by  
13 reason of being in military service, the court shall enter an order determining that  
14 the person is entitled to relief under this section. The court may suspend proceedings  
15 for the collection of taxes on the property for a period not exceeding 6 months after  
16 termination of the military service of the person, or for the time reasonably necessary  
17 to complete the agreement provided in sub. (7). Thereafter, the property shall not  
18 be included in tax certificates issued to enforce collection of taxes on property, and  
19 all proceedings for that purpose shall be suspended, except under terms that the  
20 court may order.

21       **(4)** Whenever any tax or assessment on real property, including all special  
22 assessments, is not paid when due, any interest or penalty under s. 74.47 and the  
23 maximum limitation of 6 percent per year as provided under 50 App. USC 501 shall  
24 be waived for the purpose and under the conditions specified in this section.



1           **(5)** The penalties and interest waived under this section are those for  
2 nonpayment of all taxes or assessments, general or special, falling due during the  
3 period of military service of any person against either real or personal property of  
4 which the person is the bona fide owner or in which the person has an interest.

5           **(6)** The person owning or having an interest in any property in respect to which  
6 the order under sub. (3) is made, or the person's agent or attorney, may file a certified  
7 copy of the order of suspension with the county treasurer or with the city treasurer  
8 of cities authorized by law to sell lands for the nonpayment of taxes as to the taxes  
9 and assessments. The person shall file with the order an affidavit in triplicate, sworn  
10 to by the person or agent or attorney, setting forth the name of the owner, the legal  
11 description of the property, the type of property, when acquired, volume and page  
12 number where the deed was recorded if acquired by deed, and the name of the estate  
13 if acquired by descent, amount of delinquent taxes if any, and the names of the  
14 holders of any outstanding mortgage, lien, or other encumbrance. Upon receipt of  
15 the filing, the county treasurer or city treasurer shall record the order in the office  
16 of the register of deeds of the county and file a copy in the office of the treasurer, who  
17 shall make proper notation that a person in military service is the holder of the legal  
18 title and has made application for special relief. The county treasurer or city  
19 treasurer shall immediately forward an additional copy of the order and affidavit to  
20 the office of the clerk of the town, city, or village where the property is located, or if  
21 it is located in a city, authorized to sell lands for nonpayment of its taxes, to the  
22 commissioner of assessments, who shall make an appropriate notation in the  
23 records.

24           **(7)** Any person seeking relief under this section, within 6 months after  
25 termination of military service, or the person's agent or attorney, or in case of death

1 of the person, the personal representative, surviving spouse, or heir, may apply to the  
2 county treasurer of the county, or the city treasurer of a city authorized by law to sell  
3 lands for the nonpayment of taxes, where the property is located, for an agreement  
4 for scheduled installment payments, covering the taxes accrued during the person's  
5 period of military service, provided that the taxes will be paid over a period of time  
6 equal to a period no longer than twice the length of military service of the person, in  
7 equal periodic installments of not less than \$10, and subject to any other terms as  
8 may be just and reasonable.

9 **(8)** In the event the applicant defaults in the performance of any of the  
10 provisions of the agreement, the treasurer shall notify the applicant of the default  
11 and the amount and date due, by written notice either served personally or by  
12 registered mail, return receipt requested, to the address set forth in the application.  
13 If the defaulted payment is not fully made within 10 days after service of the notice,  
14 then the treasurer, without further notice, may declare that the entire amount of the  
15 tax subject to the scheduled installments is immediately due and payable and that  
16 the agreement is terminated. The county treasurer shall notify the register of deeds  
17 and the town, city, or village treasurer of the termination, or if the city treasurer of  
18 cities authorized by law to sell lands for the nonpayment of taxes, the latter shall  
19 notify the register of deeds, the county treasurer, and the local officers and shall  
20 make appropriate notations of the termination on their records. The county  
21 treasurer, or city treasurer as to taxes of cities authorized by law to sell land for the  
22 nonpayment of taxes, may without further order of the court enforce the collection  
23 of such tax or assessment and sell such tax certificates together with the penalties  
24 and interest as may have accrued on the property from the date of default of the  
25 scheduled installment payment.

1           **(9)** (a) In this subsection:

2           1. “Commercial mobile service” has the meaning given in 47 USC 332 (d).

3           2. “Contract” means an agreement between a person in military service and a  
4 mobile telephone service provider that requires the person in military service to pay  
5 the mobile telephone service provider a monthly fee in exchange for the use of a  
6 mobile telephone.

7           3. “Mobile telephone service provider” means a person that is authorized by the  
8 federal communications commission to provide commercial mobile service.

9           (b) This subsection applies to a contract to which all of the following apply:

10          1. The contract was executed by or on behalf of a person in military service who  
11 entered active military duty after the contract was executed.

12          2. The contract covers a period in excess of one month.

13          (c) A person in military service may suspend or terminate a contract to which  
14 this subsection applies without any penalties or additional fees at any time after the  
15 service member has been issued orders into active duty by giving written notice to  
16 the mobile telephone service provider. The service member shall include a copy of  
17 the orders into active duty as part of the notice. The notice may be given by 1st class  
18 mail to the address provided in the agreement with the mobile telephone service  
19 provider or provided in the mobile telephone service provider’s billing statement or  
20 by delivering the notice to the mobile telephone service provider’s branch office.

21          (d) Suspension or termination shall be effective 30 days after the first date on  
22 which the next payment is due and payable after the date on which the notice is  
23 mailed.

24          (e) Any amount paid in advance under the contract for a period after the  
25 effective date of the suspension or termination of the contract shall be refunded to

1 the lessee by the lessor within 30 days after the effective date of the suspension or  
2 termination of the contract.

3 (f) Upon application of a mobile telephone service provider after receiving  
4 notice under this subsection and before the contract suspension or termination date  
5 provided for under par. (d), a court may make such modifications to or restrictions  
6 on the relief granted in this subsection as the court determines are appropriate under  
7 the circumstances.

8 (g) If a mobile telephone service provider assesses a person in military service  
9 any penalty or fee after the person has suspended or terminated the contract under  
10 par. (c) or fails to make any refund required under par. (e), the service member shall  
11 have the right to bring an action for damages. If the service member prevails in an  
12 action brought under this paragraph, the court shall order the mobile telephone  
13 service provider to pay the service member exemplary damages of \$2,000.

History: 2005 a. 22, 473.

14 **SECTION 112.** 21.75 of the statutes is renumbered 21.52 and amended to read:

15 **21.52 Soldiers' and sailors' relief act; state service. (1) DEFINITIONS.** In  
16 this section:

17 (a) "Active state service" means active service for 30 days or more in the  
18 national guard or the state defense force under an order of the governor issued under  
19 this chapter or active service for 30 days or more in the national guard under 32 USC  
20 502 (f) or 506 that is not considered to be "service in the uniformed services," as  
21 defined in 38 USC 4303 (13). "Active state service" includes active service for 30 days  
22 or more in the national guard of any state under the order of a governor of that state.

23 (b) "Court" means a court of record.

24 (c) "Department" means the department of military affairs.

1 (cm) “Period of active state service” means the period beginning on the date on  
2 which the service member receives an order to enter active state service and ending  
3 on the date of the service member’s release from active state service or death while  
4 in active state service.

5 (d) “Service member” means a resident of this state who may be called into  
6 active state service.

7 **(2) PROTECTION OF PERSONS SECONDARILY LIABLE.** (a) If this section results in the  
8 stay or suspension of any obligation, liability, court action, order, writ, or judgment,  
9 the court that issued the stay or suspension may grant the same remedy to sureties,  
10 guarantors, endorsers, and others subject to the obligation, liability, court action,  
11 order, writ, or judgment.

12 (b) If a service member is the principal on a criminal bail bond and his or her  
13 active state service causes the surety upon the bond to be prevented from enforcing  
14 the attendance of the service member at court, the court shall not enforce the  
15 provisions of the bond during the service member’s period of active state service and  
16 may either during or after the period of active service discharge the surety and  
17 exonerate the bail.

18 (c) A surety, guarantor, endorser, or other person subject to the obligation,  
19 liability, court action, order, writ, or judgment under par. (a) or (b) may waive in  
20 writing the rights afforded by this subsection, except that the waiver is not valid  
21 unless the waiver is executed as an instrument separate from the obligation, liability,  
22 court action, order, writ, or judgment. The waiver under this paragraph is not valid  
23 after the beginning of the period of active state service if executed by a service  
24 member who subsequently is called into active state service. The waiver under this

1 paragraph is not valid if executed by a dependent of a service member unless the  
2 waiver is executed during the period of active state service.

3 **(3) EFFECT ON RIGHTS UNDER A WRITTEN AGREEMENT.** This section does not prevent  
4 the modification, termination, or cancelation of any contract, lease, bailment, or  
5 secured obligation, or the repossession, retention, foreclosure, sale, or forfeiture of  
6 property that is security for any obligation or which has been purchased or received  
7 under a contract, lease, or bailment under a written agreement of the parties if that  
8 agreement is executed during or after the period of active state service.

9 **(4) EXERCISE OF RIGHTS.** No person may use the fact that a service member has  
10 applied for, or received, a stay, postponement, or suspension in the payment of a tax,  
11 fine, penalty, insurance premium, or other civil obligation or liability as the basis for  
12 doing any of the following:

13 (a) If the person is a lender, determining that the service member is unable to  
14 pay any such civil obligation or liability in accordance with the terms of the obligation  
15 or liability.

16 (b) If the person is a creditor, denying or revoking any credit extended to the  
17 service member, changing the terms of a credit agreement to which the service  
18 member is a party, or refusing to grant credit to the service member in substantially  
19 the amount or on substantially the terms requested by the service member.

20 (c) If the person is in the business of assembling or evaluating consumer credit  
21 information, making an adverse report on the credit worthiness of the service  
22 member.

23 (d) If the person is an insurer, refusing to insure the service member.

24 **(5) DEFAULT JUDGMENTS, AFFIDAVITS, AND ATTORNEY REPRESENTATION.** (a) If, in any  
25 court action, there is a default of any appearance of the defendant, the plaintiff, when

1 requesting a default judgment, shall file with the court an affidavit setting forth facts  
2 showing that the defendant is not in active state service. If the plaintiff is unable to  
3 file such an affidavit, the plaintiff shall, when requesting a default judgment, file an  
4 affidavit setting forth that the defendant is in active state service or that the plaintiff  
5 is unable to determine if the defendant is in active state service. If an affidavit is not  
6 filed showing that the defendant is not in active state service, a default judgment  
7 may not be entered without a court order. A court may not order the entry of a default  
8 judgment if the defendant is in active state service until the court has appointed an  
9 attorney to represent the defendant and protect the defendant's interests. Unless  
10 the court determines that the defendant is not in active state service, the court may  
11 require, as a condition of entering judgment, the plaintiff to file a bond to indemnify  
12 the defendant, if he or she is in active state service, against any loss or damage  
13 resulting from the judgment if any part of the judgment is later set aside. The court  
14 may make any other order as may be necessary to protect the interests of the  
15 defendant under this section.

16 (b) If a judgment is rendered in a court action against a service member during  
17 the period of active state service or within 30 days after the end of that period of active  
18 state service, and it appears that the service member was prejudiced in making a  
19 defense by reason of his or her active state service, the court may reopen that  
20 judgment if all of the following conditions exist:

21 1. The service member moves the court to reopen the judgment within 90 days  
22 after his or her period of active state service ends.

23 2. The service member has a meritorious or legal defense to the action.

1           (c) Vacating, setting aside, or reversing a judgment under this subsection does  
2 not impair any right or title acquired by a bona fide purchaser for value under the  
3 judgment.

4           (d) Any person who shall make or use an affidavit required under this  
5 subsection that he or she knows to be false shall be fined not more than \$10,000 or  
6 imprisoned for not more than 9 months or both.

7           **(6) STAY OF ACTION.** During any stage of a court action in which a service  
8 member in active state service is involved as a party, or within 60 days after the end  
9 of the period of active state service, the court in which the action is pending may on  
10 its own motion, and shall, on application of the service member or some person acting  
11 on behalf of the service member, stay the action unless the court determines that the  
12 service member's ability to represent his or her interest in the action is not materially  
13 affected by reason of his or her active state service.

14           **(7) STAY OR VACATION OF EXECUTIONS OR ATTACHMENTS.** In any court action that  
15 is commenced against a service member before or after entering active state service,  
16 or within 60 days after the period of active state service ends, the court may on its  
17 own motion, and shall, on application of the service member or some person acting  
18 on behalf of the service member, stay the execution of any judgment or order entered  
19 against the service member, or stay or vacate any attachment or garnishment  
20 regarding the service member's property, unless the court determines that the  
21 service member's ability to comply with the judgment or order is not materially  
22 affected by reason of his or her active state service.

23           **(8) DURATION AND TERMS OF STAYS.** (a) Any stay of any action, attachment,  
24 execution, or garnishment under this section may be ordered for the period of the



1 active state service and 3 months after that period has ended, or for any part of that  
2 time.

3 (b) Any stay under par. (a) may be subject to such terms as may be just,  
4 including the payment of installments in an amount and at the times that the court  
5 determines.

6 (c) If the service member is a codefendant in an action, the plaintiff may, by  
7 leave of the court, proceed against the other codefendants.

8 **(9) STATUTES OF LIMITATIONS.** The period of active state service may not be  
9 included in computing any period for the bringing of any action or proceeding in any  
10 court or before any public agency, as defined in s. 36.54 (2) (a) 2., by or against a  
11 person in active state service or by or against his or her heirs, personal  
12 representatives, or assigns, whether the cause of action or proceeding or the right to  
13 bring the action or proceeding accrued before or during the period of active state  
14 service.

15 **(10) MAXIMUM INTEREST RATE.** No obligation or liability bearing interest at a rate  
16 in excess of 6% per year incurred by a service member in active state service before  
17 his or her entry into that service may, during any part of the period of active state  
18 service, bear interest in excess of 6% per year except by court order. If, upon  
19 application by an obligee, a court determines that the ability of the service member  
20 to pay interest upon the obligation or liability at a rate in excess of 6% per year is not  
21 materially affected by reason of his or her active state service, the court may make  
22 any order that is just. In this subsection, “interest” includes service charges, renewal  
23 charges, fees, or other charges, other than insurance, in respect to the obligation or  
24 liability.

1           **(11) EVICTION STAY.** (a) No eviction may be made during the period of active  
2 state service in respect to any premises for which the agreed rent does not exceed  
3 \$1,200 per month, occupied chiefly for dwelling purposes by the spouse, children, or  
4 other dependents of a service member who is in active state service, except upon  
5 order of a court in an action affecting the right of possession.

6           (b) In an action for eviction under par. (a), the court may on its own motion, and  
7 shall, on application of the service member or some person acting on behalf of the  
8 service member, stay the proceedings for not longer than 3 months unless the court  
9 determines that the ability of the tenant to pay the agreed rent is not materially  
10 affected by the active state service. The court may make any other order in the  
11 eviction action as it considers necessary and just. If a stay or order is issued under  
12 this paragraph, the court may, upon the request of the owner of the premises, make  
13 any other order as may be applicable to conserve the interests of all of the parties.

14           (c) Any person who knowingly takes part in any eviction prohibited under par.  
15 (a) except as provided in this subsection, or attempts to do so, shall be fined not more  
16 than \$10,000 or imprisoned not more than 9 months or both.

17           **(12) ACTION TO ENFORCE OBLIGATION SECURED BY MORTGAGE.** (a) In this  
18 subsection, “obligation” means an obligation of a service member in active state  
19 service that was incurred before the service member’s period of active state service  
20 began and that is secured by a mortgage, deed of trust, or other security in the nature  
21 of a mortgage on real or personal property that is owned by the service member.

22           (b) If a court action against a service member is commenced during the service  
23 member’s period of active state service to enforce an obligation for nonpayment of  
24 any sum due or for any other breach of terms occurring before or during the service  
25 member’s period of active state service, the court shall hold a hearing on the matter.

1 Unless the court determines that the service member's ability to comply with the  
2 terms of the obligation is not materially affected by reason of his or her active state  
3 service, the court on its own motion may, or upon application of the service member  
4 or another person on his or her behalf shall, do any of the following:

5 1. Stay the action as provided in this section.

6 2. Make such other disposition of the case as the court determines is equitable  
7 to the interests of all parties.

8 (c) 1. Notwithstanding the times provided in ss. 846.10, 846.101, 846.102, and  
9 846.103 for sales of real property, no foreclosure, sale, or seizure of property for  
10 nonpayment of any sum due or for any other breach of terms is valid if it occurs  
11 during or within 3 months after the service member's period of active state service,  
12 unless the court ordered the foreclosure, sale, or seizure of property before the  
13 beginning of the service member's period of active state service and approves the  
14 foreclosure, sale, or seizure after it occurs.

15 2. Any person who knowingly causes a foreclosure, sale, or seizure of property  
16 that is invalid under subd. 1. shall be fined not more than \$10,000 or imprisoned for  
17 not more than 9 months or both.

18 **(13) PERSONAL PROPERTY CONTRACTS.** When an action to resume possession of  
19 personal property, or to rescind or terminate a contract for the purchase of personal  
20 property, has been stayed under this section, the court may appoint 3 disinterested  
21 persons to appraise the property. Based upon the report of the appraisers, and unless  
22 undue hardship would result to the dependents of the service member in active state  
23 service, the court may order that a sum be paid to the service member as a condition  
24 of resuming possession of the property or rescinding or terminating the contract.

1           **(14) TERMINATION OF LEASES BY LESSEES.** (a) This subsection applies to a lease  
2 to which all of the following apply:

3           1. The lease was executed by or on behalf of a service member who entered  
4 active state service after the lease was executed.

5           2. The lease covers premises that are occupied for dwelling, professional,  
6 business, agricultural, or similar purposes by the service member, or the service  
7 member and his or her dependents.

8           (b) A lease to which this subsection applies may be terminated by the service  
9 member at any time after the beginning of the service member's period of active state  
10 service by giving notice in writing by personal delivery or first class mail to the  
11 landlord or the person who has been receiving rent or managing the property as the  
12 landlord's agent.

13           (c) If the lease provides for monthly payment of rent, termination shall be  
14 effective 30 days after the first date on which the next rental payment is due and  
15 payable after the date on which the notice is delivered or mailed. In any other case,  
16 all of the following apply:

17           1. Termination shall be effective on the last day of the month after the month  
18 in which the notice was delivered or mailed.

19           2. Any unpaid rent for the period preceding termination shall be computed on  
20 a prorated basis.

21           3. The landlord or the landlord's agent shall refund to the service member any  
22 rent paid in advance that applies to the period after termination.

23           (d) Upon application of a landlord after receiving notice under this subsection  
24 and before the lease termination date provided for in this subsection, a court may

1 make such modifications to or restrictions on the relief granted in this subsection as  
2 the court determines are appropriate under the circumstances.

3 (e) No person may knowingly seize or retain personal property belonging to a  
4 service member who lawfully terminates a lease under this subsection, or in any  
5 manner interfere with the removal of the service member's personal property from  
6 the premises covered by the lease, for the purpose of subjecting the personal property  
7 to a claim for rent accruing after the termination of the lease. Any person who  
8 violates this paragraph shall be fined not more than \$10,000 or imprisoned for not  
9 more than 9 months or both.

10 (f) Section 704.29 does not apply to the termination of a lease as provided in this  
11 subsection.

12 **(15) STORAGE LIENS.** (a) Notwithstanding ss. 704.05 (5) and 704.90, no person  
13 may enforce a lien for storage of any household goods, furniture, or personal effects  
14 of a service member during the period in which the service member is in military  
15 service and for 90 days after the member's completion of military service, except as  
16 permitted by a court order under par. (b).

17 (b) No person may exercise any right to foreclose or enforce a lien for the storage  
18 of household goods, furniture, or personal effects of a service member during the  
19 service member's period of active state service and for 3 months after that period  
20 ends except upon an order of the court. In an action under this paragraph, the court,  
21 after a hearing, may on its own motion, and shall, on application of the service  
22 member or some person acting on behalf of the service member, stay the proceeding  
23 or make such other order as may be equitable to conserve the interests of all parties,  
24 unless the court determines that the ability of the service member to pay storage  
25 charges due is not materially affected by his or her active state service.

1 (c) Any person who violates par. (a) may be fined not more than \$10,000 or  
2 imprisoned for not more than 9 months or both.

3 **(16) DEPENDENT BENEFITS.** Upon application to the court, a dependent of a  
4 service member is entitled to the same benefits given to a service member while in  
5 active state service, unless the court determines that the ability of the dependent to  
6 comply with the terms of an obligation, contract, lease, or bailment is not materially  
7 impaired by reason of the service member's active state service.

8 **(17) TRANSFERS OR ACQUISITIONS.** If a court determines that any interest,  
9 property, or contract has been transferred or acquired with the intent to delay the  
10 enforcement of a civil right by taking advantage of this section, the court shall enter  
11 any judgment or make any order that is just, notwithstanding the provisions of this  
12 section.

13 **(18) CERTIFICATE OF SERVICE; PERSON REPORTED MISSING.** (a) In any action or  
14 proceeding under this section, a certificate signed by the adjutant general or a person  
15 designated by the adjutant general as to the period of active service of a service  
16 member shall be ~~prima facie~~ evidence as to any of the following facts unless shown  
17 to be incorrect:

- 18 1. That the service member named has been in active state service.
- 19 2. The period of the active state service, including the date the service member  
20 was ordered into active state service.
- 21 3. The monthly pay received by the service member in active state service at  
22 the time the certificate was issued.
- 23 4. If the service member died while in active state service, the date and the  
24 place where he or she died.

1           (b) The adjutant general shall provide the certificate under par. (a) upon  
2 request of the service member or of a person acting on behalf of the service member  
3 or his or her estate, and any certificate so provided shall be ~~prima facie~~ evidence of  
4 the facts stated in the certificate and of the authority of the signer to issue the  
5 certificate unless shown to be incorrect.

6           (c) When a service member in active state service has been reported missing  
7 to the department, the service member shall be presumed to continue in active state  
8 service until accounted for, and no period limited under this section which begins or  
9 ends with the death of a service member shall begin or end until the death of the  
10 service member is determined by the department or by a court.

11           **(19) INTERLOCUTORY ORDERS.** A court may revoke, modify, or extend any  
12 interlocutory order made by the court under this section, upon the court's own motion  
13 or on the motion of a party, upon such notice to the parties as the court may require.

14           **(20) STAY OF ENFORCEMENT OF OBLIGATIONS OR LIABILITIES.** (a) A service member  
15 may, at any time during his or her period of active state service, or within 6 months  
16 after that service ends, apply to a court for relief with respect to any obligation or  
17 liability incurred by the service member before his or her period of active state  
18 service. The court, after appropriate notice and hearing, may grant the following  
19 relief unless the court determines that the ability of the service member to comply  
20 with the terms of the obligation or liability has not been materially affected by his  
21 or her state active service:

22           1. In the case of an obligation payable in installments under a contract for the  
23 purchase of real estate, or secured by a mortgage upon real estate, a stay of the  
24 enforcement of the obligation during the period of active state service and, from the  
25 date of the end of the period of active state service or from the date of requesting the

1 relief if made after the service is ended, for a period equal to the period of the  
2 remaining life of the installment contract or instrument evidencing the obligation  
3 plus a period of time equal to the period of active state service, or any part of that  
4 combined period. The court may issue a stay under this paragraph if the service  
5 member makes payments of the balance of the principal and accumulated interest  
6 due and unpaid at the date of the end of the period of active state service or from the  
7 date of requesting the relief, whichever is appropriate, in equal installments during  
8 the combined period and at the rate of interest as is prescribed in the contract or  
9 instrument evidencing the obligation for installments paid when due. The court may  
10 order other terms under this paragraph as are just.

11 2. In the case of any other obligation or liability, a stay of the enforcement of  
12 that obligation or liability during the service member's period of active state service  
13 and, from the date of the end of the period of active state service or from the date of  
14 requesting the relief if made after the service is ended, for a period equal to the period  
15 of active state service or any part of that period. The court may issue a stay under  
16 this paragraph if the service member makes payments of the balance of the principal  
17 and accumulated interest due and unpaid at the date of the end of the period of active  
18 state service or from the date of requesting the relief, whichever is appropriate, in  
19 equal installments during the extended period and at the rate of interest as is  
20 prescribed for the obligation or liability when due. The court may order other terms  
21 under this paragraph as are just.

22 (b) When a court has granted a stay under this subsection, no penalty may  
23 accrue during the period that the terms and conditions of the stay are complied with  
24 by reason of the failure to comply with the terms or conditions of the obligation or  
25 liability in respect to which the stay was granted.



1           **(21) POWER OF ATTORNEY EXTENSION FOR MISSING SERVICE MEMBER.** (a) A power  
2 of attorney that was duly executed by a service member that is reported missing to  
3 the department and that designates the service member’s spouse, parent or named  
4 relative as his or her attorney-in-fact for specified, or all, purposes, and that expires  
5 after the service member is reported missing, is extended for the period that the  
6 service member is missing.

7           (b) No power of attorney executed after December 14, 2001, by a service  
8 member in active state service may be extended under par. (a) if the document  
9 creating the power of attorney clearly indicates that the power granted expires on  
10 the date specified even if the service member, after the date of execution of the  
11 document, is reported missing to the department.

12           **(22) PROFESSIONAL LIABILITY PROTECTION.** (a) 1. If a service member who is  
13 called into active state service has coverage under a professional liability insurance  
14 policy that does not cover claims filed with respect to the service member during the  
15 period of active state service unless the premiums are paid for the coverage for that  
16 period, the insurer that provides the coverage shall suspend the service member’s  
17 coverage under the policy upon receipt of a written request from the service member  
18 to do so. The insurer may not require that premiums be paid for the suspended  
19 coverage. The insurer shall refund any premium amount already paid for coverage  
20 of the service member for the period after the coverage is suspended or shall, at the  
21 option of the service member, apply such amount to payment of any premium that  
22 becomes due upon reinstatement of the coverage.

23           2. Subdivision 1. does not require the suspension of coverage for any other  
24 person who has coverage under the policy and who is not a service member called into

1 active state service or relieve any person of the obligation to pay premiums for  
2 coverage that is not required to be suspended under subd. 1.

3 (b) 1. Subject to subd. 2., an insurer that suspends coverage under par. (a) is  
4 not liable with respect to any claim that is based on the professional conduct,  
5 including the failure to take an action in a professional capacity, of the service  
6 member that occurs while the service member's professional liability coverage is  
7 suspended under this subsection.

8 2. For purposes of subd. 1., a claim that is based on the failure of a professional  
9 to make adequate provision for the care of patients during the professional's period  
10 of active state service shall be considered to be based on an action or the failure to  
11 take action before the beginning of the period during which coverage is suspended  
12 under this subsection, unless professional services were provided after the date on  
13 which the suspension of coverage began.

14 (c) 1. If a service member whose professional liability insurance coverage is  
15 suspended under par. (a) transmits to the insurer, within 30 days after the date on  
16 which the service member is released from active state service, a written request for  
17 reinstatement of his or her professional liability insurance coverage, the insurer  
18 must reinstate the coverage as of the date on which the insurer receives the written  
19 request. The period for which the coverage must be reinstated may not be less than  
20 the balance of the period for which the coverage would have continued under the  
21 policy had the coverage not been suspended.

22 2. Upon receipt of the written request under subd. 1., the insurer shall notify  
23 the service member of the due date for paying the premium for the insurance, and  
24 the service member shall pay the premium within 30 days after receiving the notice.  
25 For the minimum period of reinstatement required under subd. 1., the insurer may

1 not increase the amount of the premium over the amount that was chargeable before  
2 the suspension of the coverage for that period, except to the extent of any general  
3 increase in premiums charged by the insurer for the same professional liability  
4 coverage for persons similarly covered by such insurance during the period of the  
5 suspension.

6 (d) 1. Any action or proceeding in any court or before any public agency, as  
7 defined in s. 36.54 (2) (a) 2., based on the alleged professional negligence or other  
8 professional liability of a service member whose professional liability insurance  
9 coverage has been suspended under par. (a) shall be stayed until the end of the period  
10 of suspension if all of the following apply:

11 a. The action or proceeding was commenced during the period of suspension.

12 b. The action or proceeding is based on an act or omission that occurred before  
13 the date on which the period of suspension began.

14 c. The professional liability insurance policy would, except for the suspension,  
15 on its face cover the alleged professional negligence or other professional liability of  
16 the service member.

17 2. Whenever an action or proceeding is stayed under subd. 1., the action or  
18 proceeding shall be considered to have been filed on the date on which the service  
19 member's coverage is reinstated under par. (c) 1.

20 3. In any action or proceeding in which a stay may be granted under subd. 1.,  
21 the period during which the professional liability insurance coverage is suspended  
22 may not be included in computing any limitations period for commencing the action  
23 or proceeding.

1 (e) If a service member whose professional liability insurance coverage is  
2 suspended under par. (a) dies during the period of suspension, all of the following  
3 apply:

4 1. The requirement to stay any action or proceeding under par. (d) 1. terminates  
5 on the date of the service member's death.

6 2. The insurer that suspended the coverage is liable for any claim for damages  
7 for the professional negligence or other professional liability of the deceased service  
8 member in the same manner and to the same extent as the insurer would be liable  
9 if the service member had died while covered by the insurance but before the claim  
10 was filed.

11 **(23)** NOTICE OF BENEFITS UNDER THIS SECTION. The department shall provide  
12 each service member a brochure explaining this section when that service member  
13 enters active state service.

14 History: 2001 a. 24, 105; 2003 a. 69; 2005 a. 149.

**SECTION 113.** 21.78 of the statutes is renumbered 21.53 and amended to read:

15 **21.53 Employees or officers in military service.** (1) ~~The governing body~~  
16 ~~of any county, town, city, village~~ political subdivision, school district, or technical  
17 college district may grant a leave of absence to any employee or officer who is  
18 inducted or who enlists in the U.S. armed forces for a period of military service of not  
19 more than 4 years unless the employee is involuntarily retained for a longer period.  
20 No salary or compensation of the employee or officer shall be paid, nor claim for the  
21 salary or compensation exist, during the leave of absence, except as provided in this  
22 section. If the employee's or officer's salary or compensation is less in the U.S. armed  
23 forces than was paid by the ~~governing body of any county, town, city, village~~ political  
24 subdivision, school district, or technical college district, that governmental unit may

1 pay the employee or officer the difference between the salary or compensation paid  
2 by the U.S. armed forces and the salary or compensation that the employee or officer  
3 was paid by the ~~governing body of any county, town, city, village~~ political subdivision,  
4 school district, or technical college district at the time that he or she enlisted in or  
5 was inducted into the U.S. armed forces.

6 **(2)** The ~~governing body~~ political subdivision, school district, or technical college  
7 district may provide for safeguarding the reinstatement and pension rights, as  
8 limited in this section, of any employee or officer so inducted or enlisted.

9 **(3)** No employee or officer who is appointed to fill the place of any employee or  
10 officer so inducted or enlisted shall acquire permanent tenure during the period of  
11 replacement service.

12 **(4)** If the leave of absence under sub. (1) is granted to an elected or appointed  
13 official or employee and the official or employee has begun service in the U.S. armed  
14 forces, a temporary vacancy exists and a successor may be appointed to fill the  
15 unexpired term of the official or employee, or until the official or employee returns  
16 and files an election to resume the office if the date of the filing is prior to the  
17 expiration of the term. The appointment shall be made in the manner provided for  
18 the filling of vacancies caused by death, resignation, or otherwise, except that no  
19 election need be held to fill a temporary vacancy. The appointee has all the powers,  
20 duties, liabilities, and responsibilities and shall be paid and receive the  
21 compensation and other benefits of the office or position, unless otherwise provided  
22 by the governing body. Within 40 days after the termination of service in the U.S.  
23 armed forces, the elected or appointed official or employee, upon filing with the clerk  
24 of the governmental unit, a statement under oath of termination and that the official  
25 or employee elects to resume the office or position, may resume the office or position

1 for the remainder of the term for which elected or appointed. The person temporarily  
2 filling the vacancy shall cease to hold the office on the date of the filing.

3 (5) In cities of the 3rd class with a commission plan of government, in case of  
4 temporary or permanent vacancies in the office of mayor, the vice mayor shall  
5 temporarily succeed to the office of mayor for the balance of the unexpired term for  
6 which the mayor was elected unless sooner terminated as provided in s. 17.035 (3).

7 A temporary or permanent vacancy created in the office of council member may be  
8 filled as provided in this section. The term of the person appointed temporarily to  
9 the office of council member shall not extend beyond the expiration of the term of the  
10 office vacated and the temporary term shall be vacated sooner as provided for in s.  
11 17.035 (3).

12 History: 2005 a. 22, 253.

**SECTION 114.** 21.79 of the statutes is renumbered 21.54 and amended to read:

13 **21.54 Reemployment after completion of military service. (1)** (a) Any  
14 person who has enlisted or enlists in or who has been or is inducted or ordered into  
15 active service in the U.S. armed forces pursuant to 50 App. USC 301, 401, and 451,  
16 or P.L. 87-117, and any person whose services are requested by the federal  
17 government for national defense work as a civilian during a period officially  
18 proclaimed to be a national emergency or a limited national emergency, who, to  
19 perform the training or service, has left or leaves a position, other than a temporary  
20 position, in the employ of any political subdivision of the state or in the employ of any  
21 private or other employer, shall be restored to that position or to a position of like  
22 seniority, status, pay, and salary advancement as though service toward seniority,  
23 status, pay, or salary advancement had not been interrupted by the absence, if all of  
24 the following conditions are met:

1           1. The person presents to the employer evidence of satisfactory completion of  
2 the period of training or civilian service, or of discharge from the U.S. armed forces  
3 under conditions other than dishonorable.

4           2. The person is still qualified to perform the duties of the position.

5           3. The person makes application for reemployment and resumes work within  
6 90 days after completion of the training or service, military or civilian, or was so  
7 discharged from the U.S. armed forces, or within 6 months after release from  
8 hospitalization for service-connected injury or disease.

9           4. The employer's circumstances have not changed as to make it impossible or  
10 unreasonable to restore the person.

11           5. The military service was not for more than 4 years unless extended by law.

12           (b) Except as provided in par. (c), in the event of any dispute relating to the  
13 provisions under par. (a), the person may file a complaint regarding the matter with  
14 the department of workforce development. The department of workforce  
15 development shall process any complaint made under this paragraph in the same  
16 manner as employment discrimination complaints are processed under s. 111.39.

17           (c) If a dispute arises regarding a classified employee of the state relating to the  
18 provisions of par. (a), the complaint shall be filed with the director of the office of state  
19 employment relations. A decision of the director of the office of state employment  
20 relations may be reviewed under ch. 227.

21           **(2)** The service of any person who is or was restored to a position in accordance  
22 with sub. (1) shall be considered not to be interrupted by the absence, except for the  
23 receipt of pay or other compensation for the period of the absence and he or she shall  
24 be entitled to participate in insurance, pensions, retirement plans, or other benefits  
25 offered by the employer under established rules and practices relating to employees

1 on furlough or leave of absence in effect with the employer at the time the person  
2 entered or was enlisted, inducted, or ordered into the forces and service. The person  
3 whose position was restored may not be discharged from the position without cause  
4 within one year after restoration and the discharge is subject to all federal or state  
5 laws affecting any private employment and to the provisions of contracts that may  
6 exist between employer and employee. Each ~~county, town, city, village~~ political  
7 subdivision shall contribute or pay all contributions of the employer to the applicable  
8 and existent pension, annuity, or retirement system as though the service of the  
9 employee had not been interrupted by military service.

10 (3) If an employer fails or refuses to comply with subs. (1) and (2), a person  
11 entitled to the benefits under subs. (1) and (2) may petition the circuit court to require  
12 the employer to comply with those subsections. Upon the filing of the petition and  
13 on reasonable notice to the employer, the court may require the employer to comply  
14 with those subsections and to compensate the person for any loss of wages or benefits  
15 suffered by reason of the employer's action. The court shall order a speedy hearing  
16 and shall advance the case on the calendar. No fees or court costs may be taxed  
17 against a person petitioning the court under this subsection. The action commenced  
18 under this subsection against a private employer, and the trial or hearing of the  
19 action, shall be in any county in which the employment took place or in which the  
20 private employer maintains a place of business, and in all other cases shall be as  
21 provided in s. 801.50.

22 (4) No person who is appointed in the service of the state or of any ~~county, city,~~  
23 ~~village, or town~~ political subdivision to fill the place of a person entering service in  
24 the U.S. armed forces or federal government service under sub. (1) shall acquire  
25 permanent tenure during the period of that replacement service.



1           **(5)** If the decision of the circuit court is appealed the person who petitioned the  
2 circuit court under sub. (3) need not file an appeal bond for the security for costs on  
3 the appeal.

4           **(6)** The restoration of classified employees of the state shall be governed by s.  
5 230.32. The restoration of unclassified state employees shall be governed by this  
6 section.

7 History: 2005 a. 22.

**SECTION 115.** 21.80 of the statutes is renumbered 21.55 and amended to read:

8           **21.55 Reemployment rights after national guard, state defense force,**  
9 **or public health emergency service. (1) DEFINITIONS.** In this section:

10           (a) “Active service” means any of the following:

11           1. Active service in the national guard or the state defense force under an order  
12 of the governor issued under this chapter or active service in the national guard  
13 under 32 USC 502 (f) that is not considered to be service in the uniformed services.

14           2. Active service with the state laboratory of hygiene under s. 36.25 (11) (em)  
15 for the purpose of assisting the department of health and family services under s.  
16 250.042 during a state of emergency relating to public health declared by the  
17 governor under s. 166.03 (1) (b) 1.

18           3. Active service in the national guard under an order of the governor of that  
19 state.

20           (b) “Employer” means a person engaging in any activity, enterprise, or business  
21 in this state employing one or more persons on a permanent basis. “Employer”  
22 includes the state and any office, department, independent agency, authority,  
23 institution, association, society, or other body in state government created or  
24 authorized to be created by the constitution or any law, including the legislature and

1 the courts. “Employer” also includes a successor-in-interest of a person employing  
2 an individual who has provided notice to that person under sub. (3) (a).

3 (c) “Health benefit plan” has the meaning given in s. 632.745 (11).

4 (d) “Qualified” means having the ability to perform the essential tasks of an  
5 employment position.

6 (e) “Reasonable efforts” means, with respect to an action required by an  
7 employer under sub. (4) (a) 1., 2., 3., or 4., an action that does not place an undue  
8 hardship on the employer.

9 (f) “Service in the uniformed services” has the meaning given in 38 USC 4303  
10 (13).

11 (g) “Undue hardship” means, with respect to an action required by an employer  
12 under sub. (4) (a) 1., 2., 3., or 4., significant difficulty or expense, when considered  
13 in light of all of the following:

14 1. The nature and cost of the action.

15 2. The overall financial resources of the facility involved in providing the action,  
16 the number of persons employed at the facility, the effect of providing the action on  
17 the resources and finances of the facility, and any other impact of the action on the  
18 operation of the facility.

19 3. The overall financial resources of the employer, the number of persons  
20 employed by the employer, and the number, type, and location of the employer’s  
21 facilities.

22 4. The type of operation of the employer, including the composition, structure,  
23 and functions of the employer’s workforce, the geographic separateness from the  
24 employer of the facility involved in providing the action, and the administrative and  
25 financial relationship of the facility to the employer.

1           **(2) MORE GENEROUS RIGHTS PERMITTED.** Nothing in this section prohibits an  
2 employer from providing employees who are called into active service with  
3 reemployment rights and benefits that are more generous to the employee than the  
4 rights and benefits provided under this section.

5           **(3) REEMPLOYMENT RIGHTS.** (a) *Prerequisites.* Subject to par. (d), any person who  
6 is a resident of this state and absent from a position of employment because of active  
7 service is entitled to the reemployment rights and benefits specified in this section  
8 if all of the following apply:

9           1. Except as provided in par. (b), the person or an appropriate officer in the  
10 national guard of this or another state or the state defense force has given advanced  
11 notice of the active service to the person's employer.

12           2. Except as provided in par. (c), the cumulative length of the absence from the  
13 position of employment and of all previous absences from a position of employment  
14 with the employer by reason of active service or service in the uniformed services  
15 does not exceed 5 years.

16           3. Except as provided in par. (f), the person reports to the employer or submits  
17 an application for reemployment to the employer as required under par. (e).

18           4. In the case of active service in the national guard in this or another state or  
19 the state defense force, the active service has not been terminated under other than  
20 honorable conditions.

21           (b) *Notice not required.* No notice is required under par. (a) 1. if the giving of  
22 that notice is precluded by military necessity or is otherwise impossible or  
23 unreasonable. A determination of military necessity for purposes of this paragraph  
24 shall be made according to rules and regulations promulgated by the adjutant  
25 general or the federal secretary of defense and is not subject to judicial review.

1           (c) *Length of absence limit.* The periods of service in the uniformed services  
2 described in 38 USC 4312 (c) (1) to (4) and all of the following periods of active service  
3 are not included in calculating the 5–year period specified in par. (a) 2.:

4           1. Any period of active service, as defined in sub. (1) (a) 1., beyond that 5–year  
5 period that is required to complete an initial period of obligated active service.

6           2. Any period of active service, as defined in sub. (1) (a) 1., for which the person,  
7 through no fault of the person’s own, was unable to obtain orders releasing the person  
8 from a period of active service before the expiration of the 5–year period.

9           3. Any period of active service, as defined in sub. (1) (a) 1., that was performed  
10 to fulfill any additional training requirements determined and certified in writing  
11 by the federal secretary of the army, the federal secretary of the air force, or the  
12 adjutant general to be necessary for professional development or for completion of  
13 skill training or retraining.

14           4. Any period of active service that was performed by a person who was ordered  
15 to, or retained in, active service, other than for training, because of a state emergency  
16 declared by the governor, because of a war or national emergency declared by the  
17 president of the United States or Congress, because of insurrection, rebellion, riot,  
18 invasion, or resistance to the execution of the laws of this state or of the United  
19 States, or in support of an operational mission, a critical mission, or any other  
20 requirement of the uniformed services.

21           (d) *Exceptions.* An employer is not required to reemploy a person under this  
22 section if the employer shows that any of the following applies:

23           1. The employer’s circumstances have so changed as to make reemployment of  
24 the person impossible or unreasonable.

1           2. The position of employment that the person left to perform active service was  
2 for a brief, nonrecurrent period and there was no reasonable expectation that the  
3 position of employment would continue indefinitely or for a significant period of time.

4           3. In the case of a person who is entitled to reemployment under sub. (4) (a) 3.  
5 or 4., the accommodations, training, or effort required under sub. (4) (a) 3. or 4. would  
6 pose an undue hardship on the employer.

7           (e) *Return procedures.* 1. Subject to subds. 4. and 5., if a person who has been  
8 absent from a position of employment because of active service that lasted for less  
9 than 31 days, who has been absent from a position of employment for any period of  
10 time for the purpose of an examination to determine the person's fitness to perform  
11 active service, or who has been absent from a position of employment because the  
12 person was hospitalized for or was convalescing from an illness or injury that was  
13 incurred in or aggravated during the performance of that active service wishes to  
14 receive the reemployment rights and benefits specified in this section, the person  
15 must notify the person's employer of the person's intent to return to the position of  
16 employment by reporting to the employer by no later than the beginning of the first  
17 full regularly-scheduled work period on the first full calendar day following the  
18 completion of the active service, examination, or period of hospitalization or  
19 convalescence, a period of time that allows for the safe transportation of the person  
20 from the place of active service, examination, hospitalization, or convalescence to the  
21 person's residence, and a rest period of 8 hours following that transportation period  
22 or, if through no fault of the person's own reporting to the employer within that time  
23 is impossible or unreasonable, by reporting to the employer as soon as possible after  
24 that 8-hour rest period.

1           2. Subject to subds. 4. and 5., if a person who has been absent from a position  
2 of employment because of active service that lasted for more than 30 days, but less  
3 than 181 days, or who has been absent from a position of employment because the  
4 person was hospitalized for or was convalescing from an illness or injury that was  
5 incurred in or aggravated during the performance of that active service wishes to  
6 receive the reemployment rights and benefits specified in this section, the person  
7 must notify the person's employer of the person's intent to return to the position of  
8 employment by submitting to the employer an application for reemployment by no  
9 later than 14 days after the completion of the active service, hospitalization, or  
10 convalescence or, if through no fault of the person's own submitting the application  
11 within that time is impossible or unreasonable, by submitting to the employer an  
12 application for reemployment by no later than the first full calendar day on which  
13 submission of the application becomes possible.

14           3. Subject to subds. 4. and 5., if a person who has been absent from a position  
15 of employment because of active service that lasted for more than 180 days or who  
16 has been absent from a position of employment because the person was hospitalized  
17 for or was convalescing from an illness or injury that was incurred in or aggravated  
18 during the performance of that active service wishes to receive the reemployment  
19 rights and benefits specified in this section, the person must notify the person's  
20 employer of the person's intent to return to the position of employment by submitting  
21 to the employer an application for reemployment by no later than 90 days after the  
22 completion of the active service, hospitalization, or convalescence or, if through no  
23 fault of the person's own submitting the application within that time is impossible  
24 or unreasonable, by submitting to the employer an application for reemployment by

1 no later than the first full calendar day on which submission of the application  
2 becomes possible.

3 4. The period of hospitalization or convalescence specified in subds. 1., 2., and  
4 3. may not exceed 2 years, except that if through no fault of the person's own it is  
5 impossible or unreasonable for the person to report to the employer within the time  
6 specified in subd. 1. or to apply for reemployment within the time specified in subd.  
7 2. or 3., that 2-year period shall be extended by the minimum period of time required  
8 to accommodate the circumstances that made it impossible or unreasonable for the  
9 person to report or apply as so required.

10 5. A person who fails to report to the person's employer within the time specified  
11 in subd. 1. or who fails to apply for reemployment within the time specified in subd.  
12 2. or 3. does not automatically forfeit the reemployment rights and benefits specified  
13 in this section. Instead, the person shall be subject to the rules, policies, and  
14 practices of the person's employer pertaining to discipline for unexcused absences  
15 from work.

16 (f) *Documentation.* 1. A person who submits an application for reemployment  
17 under par. (e) 2. or 3. must, on the request of the person's employer, provide to the  
18 employer documentation to establish that the application was submitted within the  
19 time limits specified in par. (e) 2. or 3., that the person's cumulative length of all  
20 absences from employment with the employer because of active service or service in  
21 the uniformed services does not, except as permitted under par. (c), exceed 5 years,  
22 and, in the case of active service in the national guard or the state defense force, that  
23 the person's service was not terminated under other than honorable conditions.

24 2. An employer may not refuse to reemploy a person who fails to provide any  
25 of the documentation specified in subd. 1. because that documentation does not exist

1 or is not readily available at the time the employer requests that documentation. If  
2 after the person is reemployed documentation becomes available that establishes  
3 that the person does not meet a requirement specified in subd. 1., the employer may  
4 terminate the person's employment and the provision of any rights and benefits  
5 afforded to the person under this section.

6 3. An employer may not delay or attempt to defeat a reemployment right that  
7 the employer is obligated to provide under this section by demanding documentation  
8 that does not exist or is not readily available at the time of the demand.

9 (g) *Veterans preferences.* The right of a person to reemployment under this  
10 subsection does not entitle the person to retention, preference, or displacement  
11 rights over any person who has a superior claim under s. 45.03 (4), 62.13 (4) (d), 63.08  
12 (1) (f), 63.37, 63.39 (2m), 66.0509 (1), 230.15 (2m), 230.16 (7) or (7m), 230.21 (1m),  
13 230.25, or 230.275.

14 (h) *Prohibited bases for denial of reemployment.* In determining a person's  
15 right to reemployment and other benefits under this section, an employer may not  
16 deny reemployment or any other benefits based on the timing, frequency, duration,  
17 or nature of the person's active service or service in the uniformed services so long  
18 as the requirements under par. (a) are met.

19 **(4) REEMPLOYMENT POSITIONS.** (a) *Prompt reemployment required.* 1. Subject  
20 to subds. 3. and 4. and par. (b), an employer shall reemploy a person who is entitled  
21 to reemployment under sub. (3) and whose period of active service was for less than  
22 91 days promptly on completion of that period of active service in the position of  
23 employment in which the person would have been employed if the continuous  
24 employment of the person with the employer had not been interrupted by that active  
25 service so long as the person is qualified to perform the duties of that position or, if



1 after reasonable efforts by the employer to qualify the person to perform those duties  
2 the person is not qualified to perform those duties, in the position of employment in  
3 which the person was employed on the date on which the person's period of active  
4 service began.

5 2. Subject to subds. 3. and 4. and par. (b), an employer shall reemploy a person  
6 who is entitled to reemployment under sub. (3) and whose period of active service was  
7 for more than 90 days promptly on completion of that period of active service in the  
8 position of employment in which the person would have been employed if the  
9 continuous employment of the person with the employer had not been interrupted  
10 by that active service or in a position of employment of like seniority, status, and pay  
11 so long as the person is qualified to perform the duties of that position or, if after  
12 reasonable efforts by the employer to qualify the person to perform those duties the  
13 person is not qualified to perform those duties, in the position of employment in  
14 which the person was employed on the date on which the person's period of active  
15 service began or in a position of employment of like seniority, status, and pay.

16 3. Subject to par. (b), in the case of a person who has a disability that was  
17 incurred in or aggravated during a period of active service and who, after reasonable  
18 efforts by the employer to accommodate the disability, is not qualified due to the  
19 disability to perform the duties of the position of employment in which the person  
20 would have been employed if the continuous employment of the person with the  
21 employer had not been interrupted by the active service, the employer shall reemploy  
22 the person promptly on completion of that period of active service in any other  
23 position that is equivalent to that position in seniority, status, and pay, the duties of  
24 which the person is qualified to perform or would become qualified to perform with  
25 reasonable efforts by the employer, or, if there is no other position of employment

1 available that is equivalent to that position in seniority, status, and pay, in a position  
2 that is the nearest approximation to that equivalent position in terms of seniority,  
3 status, and pay, consistent with the person's circumstances.

4 4. Subject to par. (b), in the case of a person who is not qualified to be employed  
5 in the position of employment in which the person would have been employed if the  
6 continuous employment of the person with the employer had not been interrupted  
7 by the person's active service or in the position of employment in which the person  
8 was employed on the date on which the person's period of active service began for any  
9 reason other than disability incurred in or aggravated during a period of active  
10 service and who cannot become qualified to be so employed with reasonable efforts  
11 by the employer, the employer shall reemploy the person promptly on completion of  
12 that period of active service in any other position that the person is qualified to  
13 perform and that is the nearest approximation to the position of employment in  
14 which the person would have been employed if the continuous employment of the  
15 person with the employer had not been interrupted by that active service, with full  
16 seniority, or if no position of employment that is the nearest approximation to that  
17 position is available, in a position of employment that the person is qualified to  
18 perform and that is the nearest approximation to the position of employment in  
19 which the person was employed on the date on which the person's period of active  
20 service began, with full seniority.

21 (b) *Multiple returning employees.* 1. If 2 or more persons who are entitled to  
22 reemployment under sub. (3) in the same position of employment have reported to  
23 the employer or applied for reemployment in that position, the person who left  
24 employment first shall have the prior right to reemployment in that position.

1           2. A person who is entitled to reemployment under sub. (3), but who is not  
2 reemployed because of subd. 1., shall be entitled to reemployment as provided in par.  
3 (a) 1., 2., 3., or 4., whichever is applicable, in a position of employment that provides  
4 for similar status and pay as the position described in subd. 1., consistent with the  
5 person's circumstances, with full seniority.

6           **(5) RIGHTS, BENEFITS, AND OBLIGATIONS.** (a) *Seniority.* A person who is  
7 reemployed under this section is entitled to the seniority and other rights and  
8 benefits determined by seniority that the person had on the last day of employment  
9 before the person's active service began, plus all seniority and other rights and  
10 benefits determined by seniority that the person would have had if the continuous  
11 employment of the person with the employer had not been interrupted by that active  
12 service.

13           (b) *Continuation of benefits.* 1. Subject to subds. 2. to 5., a person who is absent  
14 from employment because of active service is considered to be on furlough or leave  
15 of absence while performing the active service and is entitled to receive all rights and  
16 benefits not determined by seniority that are generally provided by the employer to  
17 employees having similar seniority, status, and pay who are on furlough or leave of  
18 absence under a contract, agreement, policy, practice, or plan that is in effect on the  
19 day on which the active service began or that is established while the person is  
20 performing the active service.

21           2. If an employer shows that a person who is absent from a position of  
22 employment because of active service has knowingly provided written notice of the  
23 person's intent not to return to a position of employment with the employer after that  
24 active service and, in doing so, was aware of the specific rights and benefits under  
25 subd. 1. that the person would lose while absent from the position of employment,

1 the person is not entitled to the rights and benefits specified in subd. 1. while absent  
2 from employment.

3 3. A person who is considered to be on furlough or leave of absence under subd.  
4 1. while performing active service is not entitled to any benefit to which the person  
5 would not otherwise be entitled if the person had remained continuously employed.

6 4. An employer may require a person who is considered to be on furlough or  
7 leave of absence under subd. 1. while performing active service to pay the employee  
8 cost, if any, of any benefit that is continued under subd. 1. to the same extent that  
9 other employees who are on furlough or leave of absence are so required.

10 5. A person who is absent from a position of employment because of active  
11 service is entitled to receive coverage under a health benefit plan during the absence  
12 and on reemployment as provided in sub. (6).

13 (c) *Protection from discharge.* An employer that reemploys under this section  
14 a person whose period of active service lasted for more than 30 days, but less than  
15 181 days, may not discharge the person within 180 days after the date of  
16 reemployment except for cause. An employer that reemploys under this section a  
17 person whose period of active service lasted for more than 180 days may not  
18 discharge the person within one year after the date of reemployment except for  
19 cause.

20 **(6) CONTINUATION OF HEALTH CARE COVERAGE.** (a) *Option to continue coverage.*  
21 Notwithstanding s. 632.897, if a person who has coverage under a health benefit plan  
22 in connection with the person's employment is absent from a position of employment  
23 because of active service, the insurer that issued the health benefit plan shall permit  
24 the person, and the person's dependents, to continue coverage under the health  
25 benefit plan until the first to occur of the following:

1           1. Eighteen months have elapsed since the person's absence from the position  
2 of employment began.

3           2. The day after the date on which the person is required under sub. (3) (e) to  
4 report to the employer or apply for reemployment.

5           (b) *Payment of premiums.* A person who elects to continue coverage under par.  
6 (a) and who is absent from a position of employment for 30 days or less may not be  
7 required to pay more than the employee share, if any, of the cost of the coverage. A  
8 person who elects to continue coverage under par. (a) and who is absent from a  
9 position of employment for more than 30 days may be required to pay up to 102% of  
10 the full premium for that coverage for the period of continued coverage that exceeds  
11 30 days.

12           (c) *Reinstatement on reemployment.* If a person's coverage under a health  
13 benefit plan in connection with his or her employment was terminated because of the  
14 person's active service and if after returning from that active service the person is  
15 reemployed under sub. (3), coverage under the health benefit plan shall be reinstated  
16 for the person and the person's dependents immediately upon reemployment. With  
17 respect to the reinstated coverage, no exclusion or waiting period may be imposed  
18 that would not have been imposed had the coverage not been terminated because of  
19 the active service.

20           **(7) ENFORCEMENT.** (a) *Complaint.* Any person who believes that his or her  
21 employer has failed or refused, or is about to fail or refuse, to provide to the person  
22 any reemployment right or benefit to which the person is entitled under this section  
23 may file a complaint with the adjutant general, in such form as the adjutant general  
24 may prescribe by rule, summarizing the allegations that form the basis of the  
25 complaint. The adjutant general shall investigate the complaint and, if the adjutant

1 general is reasonably satisfied that the person is entitled to the rights or benefits  
2 sought, the adjutant general shall endeavor to resolve the complaint by conference,  
3 conciliation, or persuasion. If the adjutant general is not reasonably satisfied that  
4 the person is entitled to the rights or benefits sought, the adjutant general may  
5 refuse to endeavor to resolve the complaint and shall notify the person who filed the  
6 complaint that the person may proceed under par. (b) 2. to enforce the person's rights  
7 under this section. If the adjutant general is not able to resolve the complaint, the  
8 adjutant general shall notify the person who filed the complaint that the person may  
9 proceed under par. (b) 1. or 2. to enforce the person's rights under this section.

10 (b) *Enforcement procedures.* 1. A person who receives notification under par.  
11 (a) that the adjutant general was unable to resolve the person's complaint may  
12 request the adjutant general to refer the complaint to counsel, which may include the  
13 attorney general, appointed by the governor on the recommendation of the adjutant  
14 general for the purpose of prosecuting complaints under this subdivision who shall  
15 file a complaint for appropriate relief with the department of workforce development.

16 2. Subdivision 1. does not preclude a person who has chosen not to file a  
17 complaint with the adjutant general under par. (a), whose complaint the adjutant  
18 general has refused to endeavor to resolve under par. (a), or who has chosen not to  
19 request the adjutant general to refer his or her complaint to counsel under subd. 1.  
20 from filing a complaint for appropriate relief with the department of workforce  
21 development.

22 3. The department of workforce development shall process a complaint filed  
23 under subd. 1. or 2. in the same manner that employment discrimination complaints  
24 are processed under s. 111.39.

1           (c) *Retaliation prohibited.* An employer may not discharge or otherwise  
2 discriminate against any person for filing a complaint or attempting to enforce a  
3 right provided under this section or for testifying or assisting in any action or  
4 proceeding to enforce a right provided under this section.

5           (d) *Remedies.* If the department of workforce development finds that an  
6 employer has failed or refused, or is about to fail or refuse, to provide any  
7 reemployment right or benefit to which a person is entitled under this section or has  
8 discharged or otherwise discriminated against any person in violation of par. (c), the  
9 department of workforce development may order the employer to do any one or more  
10 of the following:

11           1. Take such action as will fully vindicate the rights and benefits of the person  
12 under this section.

13           2. Compensate the person for any loss of wages, salary, or other benefits  
14 suffered because of the failure or refusal to provide reemployment rights or benefits  
15 under this section or the discharge or other discrimination.

16           3. Pay the person, as liquidated damages, an amount that is equal to the  
17 amount ordered under subd. 2. if the department of workforce development finds  
18 that the failure or refusal to provide reemployment rights or benefits under this  
19 section or the discharge or other discrimination was willful.

20           4. Pay the person costs and reasonable actual attorney fees, if the person is not  
21 represented by counsel appointed under par. (b) 1.

22           **(8) RULES.** The department of military affairs shall promulgate rules  
23 implementing this section.

