



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-6547/P4
MLJ:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 322.001 (15); and **to create** 322.0935 of the statutes; **relating**
2 **to:** creating a punitive article in the Wisconsin Code of Military Justice
3 prohibiting certain activities with a military recruit or trainee by a person in
4 a position of special trust.

Analysis by the Legislative Reference Bureau

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council Study Committee on Wisconsin National Guard Sexual Misconduct Procedures. Under current law, members of the Wisconsin National Guard on state status are subject to the Wisconsin Code of Military Justice (WCMJ), which codifies offenses that may be punished under the code and establishes procedures for enforcing the code.

This bill prohibits an officer, noncommissioned officer, or petty officer who is in a training leadership position from engaging in a prohibited sexual activity with a specially protected junior member of the armed forces. Prohibited sexual activity means any sexual act or sexual contact, as defined by the WCMJ, or any attempt or solicitation to commit a sexual act or sexual contact. A specially protected junior member of the armed forces is defined as a member of the state military forces who is any of the following: (1) assigned to or awaiting assignment to basic training or other initial active duty for training; (2) a cadet, candidate, midshipman, or student in any other officer qualification program; or (3) in any program that, by regulation of the secretary of the army or air force, is identified as a training program for initial career qualification.

This bill also prohibits a military recruiter from engaging in prohibited sexual activity with an applicant for military service or a specially protected junior member of the state military forces who is enlisted under a delayed entry program.

Consent is not a defense for any conduct at issue.

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

1 **SECTION 1.** 322.001 (15) of the statutes is amended to read:

2 322.001 (15) "Military offenses" means those offenses prescribed under articles
3 77, principals; 78, accessory after the fact; 80, attempts; 81, conspiracy; 82,
4 solicitation; 83, fraudulent enlistment, appointment, or separation; 84, unlawful
5 enlistment, appointment, or separation; 85, desertion; 86, absence without leave; 87,
6 missing movement; 88, contempt toward officials; 89, disrespect towards superior
7 commissioned officer; 90, assaulting or willfully disobeying superior commissioned
8 officer; 91, insubordinate conduct toward warrant officer, noncommissioned officer,
9 or petty officer; 92, failure to obey order or regulation; 93, cruelty and maltreatment;
10 93a, prohibited activities with military recruit or trainee by a person in a position of
11 special trust; 94, mutiny or sedition; 95, resistance, flight, breach of arrest, and
12 escape; 96, releasing prisoner without proper authority; 97, unlawful detention; 98,
13 noncompliance with procedural rules; 99, misbehavior before the enemy; 100,
14 subordinate compelling surrender; 101, improper use of countersign; 102, forcing a
15 safeguard; 103, captured or abandoned property; 104, aiding the enemy; 105,
16 misconduct as prisoner; 107, false official statements; 108, military property — loss,
17 damage, destruction, or wrongful disposition; 109, property other than military
18 property — waste, spoilage, or destruction; 110, improper hazarding of vessel; 111,
19 drunken or reckless operation of a vehicle, aircraft, or vessel; 112, drunk on duty;
20 112a, wrongful use, or possession of controlled substances; 113, misbehavior of
21 sentinel; 114, dueling; 115, malingering; 116, riot or breach of peace; 117, provoking

1 speeches or gestures; 120, rape and sexual assault generally; 120a, stalking; 120b,
2 rape and sexual assault of a child; 120c, sexual misconduct; 121, larceny and
3 wrongful appropriation; 122, robbery; 123, forgery; 124, maiming; 126, arson; 127,
4 extortion; 128, assault; 129, burglary; 130, housebreaking; 131, perjury; 132, frauds
5 against the government; 133, conduct unbecoming an officer and a gentleman; and
6 134, general; of this code.

7 **SECTION 2.** 322.0935 of the statutes is created to read:

8 **322.0935 Article 93a - Prohibited activities with military recruit or**
9 **trainee by a person in a position of special trust. (1)** In this section:

10 (a) "Applicant for military service" means a person who, under regulations
11 prescribed by the secretary of the relevant military branch, is an applicant for
12 original enlistment or appointment in the state military forces.

13 (b) "Military recruiter" means a person who, under regulations prescribed by
14 the secretary of the relevant military branch, has the primary duty to recruit persons
15 for military service.

16 (c) "Prohibited sexual activity" means any sexual act, as defined in s. 322.120
17 (1) (e), or any sexual contact, as defined in s. 322.120 (1) (f), or any attempt or
18 solicitation to commit a sexual act or sexual contact.

19 (d) "Specially protected junior member of the state military forces" means any
20 of the following:

21 1. A member of the state military forces who is assigned to, or is awaiting
22 assignment to, basic training or other initial active duty for training, including a
23 member who is enlisted under a delayed entry program.

24 2. A member of the state military forces who is a cadet, candidate, or
25 midshipman, or a student in any other officer qualification program.

