## State of Misconsin 2021 - 2022 LEGISLATURE

LRB-6553/P3 MJW:emw

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT to amend 322.036; and to create 321.04 (1) (s) of the statutes; relating
to: pretrial, trial, and post-trial procedures applicable to courts-martial cases
under the Wisconsin Code of Military Justice.

## 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.

Under current law, the Governor may prescribe pretrial, trial, and post-trial procedures, including modes of proof, for courts-martial cases arising under the WCMJ, "which shall apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the armed forces but which may not be contrary to or inconsistent with [the WCMJ]." The bill requires the Adjutant General to prescribe pretrial, trial, and post-trial procedures for courts-martial cases arising under the WCMJ in writing and to make these procedures publicly available on the department's website.

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

4 Section 1. 321.04 (1) (s) of the statutes is created to read:

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321.04 (1) (s) Prescribe in writing and make publicly available on the department's website the procedures required under s. 322.036.

**Section 2.** 322.036 of the statutes is amended to read:

322.036 Article 36 — Governor may prescribe regulations Pretrial, trial, and post-trial procedures. Pretrial, trial, and post-trial procedures not specified in this code, including modes of proof, for courts-martial cases arising under this code, and for courts of inquiry, may shall be prescribed by the governor by regulations, or as otherwise provided by law, which shall apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the armed forces but which may not be contrary to or inconsistent with this code adjutant general in writing and made publicly available on the department of military affairs' website.

13 (END)