

2022 Regular Session

SENATE BILL NO. 319

BY SENATOR FOIL

MILITARY AFFAIRS. Provides for certain punitive articles of the Louisiana Code of Military Justice. (8/1/22)

AN ACT

To amend, reenact, and redesignate R.S. 29:183, 198, 205, 215, 220, 220a, 223 and 232, and to enact R.S. 29:204a, 206a, 214, 217a, 221a, 221b, 222a, 223a, 224, 230, 231a, 231b, 231c, 231d, 231e, and 231f, relative to the Louisiana Code of Military Justice; to provide for punitive articles; to redesignate certain punitive articles to conform with the Uniform Code of Military Justice; to provide for the offense of malingering; to provide for the offense of misconduct as a prisoner; to provide for the offense of fraudulent enlistment, appointment or separation; to provide for the offense of forgery; to provide for the offense of wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button; to provide for endangerment offenses; to provide for the offense of communicating threats; to provide for the offense of wrongful broadcast or distribution of intimate visual images; to provide for the offense of sexual assault; to provide for the offense of depositing obscene matter in the mail; to provide for the offense of fraudulent use of credit cards, debit cards, or other access devices; to provide for the offense of false pretenses to obtain services; to provide for the offense of receiving stolen property; to provide for offenses concerning government computers; to provide for the offense of making, drawing,

1 or uttering check, draft, or order without sufficient funds; to provide for frauds
 2 against the government; to provide for the offense of stalking; to provide for the
 3 offense of subornation of perjury; to provide for the offense of obstructing justice;
 4 to provide for the offense of misprision of serious offense; to provide for the offense
 5 of wrongful refusal to testify; to provide for the offense of prevention of
 6 unauthorized seizure of property; to provide for the offense of noncompliance with
 7 procedural rules; to provide for the offense of retaliation; and to provide for related
 8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 29:183, 198, 205, 215, 220, 220a, 223 and 232 are hereby amended,
 11 reenacted, and redesignated and R.S. 29:204a, 206a, 214, 217a, 221a, 221b, 222a, 223a, 224,
 12 230, 231a, 231b, 231c, 231d, 231e, and 231f are hereby enacted to read as follows:

13 ~~§215. Article 115.~~ **§183. Article 83.** Malingering

14 Any person subject to this ~~code~~ **Code** who for the purpose of avoiding work,
 15 duty or service in the state military forces:

- 16 (1) feigns illness, physical disablement, mental lapse or derangement; or
- 17 (2) intentionally inflicts self-injury; shall be punished as a court-martial may
- 18 direct.

19 * * *

20 ~~§205. Article 105.~~ **§198. Article 98.** Misconduct as a prisoner

21 Any person subject to this ~~code~~ **Code** who, while in the hands of the enemy
 22 in time of war:

- 23 (1) for the purpose of securing favorable treatment by his captors acts
- 24 without proper authority in a manner contrary to law, custom, or regulation, to the
- 25 detriment of others of whatever nationality held by the enemy as civilian or military
- 26 prisoners; or
- 27 (2) while in a position of authority over such persons maltreats them without
- 28 justifiable cause; shall be punished as a court-martial may direct.

29 * * *

1 death or grievous bodily harm to another person, shall be punished as a
2 court-martial may direct.

3 B. Dueling. Any person subject to this Code who fights or promotes, or
4 is concerned in or connives at fighting a duel, or who, having knowledge of a
5 challenge sent or about to be sent, fails to report the facts promptly to the
6 proper authority, shall be punished as a court-martial may direct.

7 C. Firearm discharge, endangering human life. Any person subject to
8 this Code who, willfully and wrongly, discharges a firearm, under
9 circumstances such as to endanger human life shall be punished as a
10 court-martial may direct.

11 D. Carrying concealed weapon. Any person subject to this Code who
12 unlawfully carries a dangerous weapon concealed on or about his person shall
13 be punished as a court-martial may direct.

14 §215. Article 115. ~~Malingering~~ Communicating threats

15 ~~Any person subject to this code who for the purpose of avoiding work, duty~~
16 ~~or service in the state military forces:~~

17 (1) ~~feigns illness, physical disablement, mental lapse or derangement, or~~

18 (2) ~~intentionally inflicts self-injury,~~ shall be punished as a court-martial may
19 ~~direct.~~

20 A. Communicating threats generally. Any person subject to this Code
21 who wrongfully communicates a threat to injure the person, property, or
22 reputation of another shall be punished as a court-martial may direct.

23 B. Communicating threat to use explosive, etc. Any person subject to this
24 Code who wrongfully communicates a threat to injure the person or property
25 of another by use of an explosive, a weapon of mass destruction, a biological or
26 chemical agent, substance, or weapon, or a hazardous material, shall be
27 punished as a court-martial may direct.

28 C.(1) Communicating false threat concerning use of explosive, etc. Any
29 person subject to this Code who maliciously communicates a false threat

1 concerning injury to the person or property of another by use of an explosive,
2 a weapon of mass destruction, a biological or chemical agent, substance, or
3 weapon, or a hazardous material, shall be punished as a court-martial may
4 direct.

5 (2) As used in this Section, the term "false threat" means a threat that,
6 at the time the threat is communicated, is known to be false by the person
7 communicating the threat.

8 * * *

9 §217a. Article 117a. Wrongful broadcast or distribution of intimate visual
10 images

11 A. Prohibition. Any person subject to this Code:

12 (1) who knowingly and wrongfully broadcasts or distributes an intimate
13 visual image of another person or a visual image of sexually explicit conduct
14 involving a person who:

15 (a) is at least 18 years of age at the time the intimate visual image or
16 visual image of sexually explicit conduct was created;

17 (b) is identifiable from the intimate visual image or visual image of
18 sexually explicit conduct itself, or from information displayed in connection
19 with the intimate visual image or visual image of sexually explicit conduct; and

20 (c) does not explicitly consent to the broadcast or distribution of the
21 intimate visual image or visual image of sexually explicit conduct;

22 (2) who knows or reasonably should have known that the intimate visual
23 image or visual image of sexually explicit conduct was made under
24 circumstances in which the person depicted in the intimate visual image or
25 visual image of sexually explicit conduct retained a reasonable expectation of
26 privacy regarding any broadcast or distribution of the intimate visual image or
27 visual image of sexually explicit conduct;

28 (3) who knows or reasonably should have known that the broadcast or
29 distribution of the intimate visual image or visual image of sexually explicit

1 conduct is likely:

2 (a) to cause harm, harassment, intimidation, emotional distress, or
3 financial loss for the person depicted in the intimate visual image or visual
4 image of sexually explicit conduct; or

5 (b) to harm substantially the depicted person with respect to that
6 person's health, safety, business, calling, career, financial condition, reputation,
7 or personal relationships; and

8 (4) whose conduct, under the circumstances, had a reasonably direct and
9 palpable connection to a military mission or military environment, is guilty of
10 wrongful distribution of intimate visual images or visual images of sexually
11 explicit conduct and shall be punished as a court-martial may direct.

12 B. Definitions. In this Section:

13 (1) Broadcast. The term "broadcast" means to electronically transmit
14 a visual image with the intent that it be viewed by a person or persons.

15 (2) Distribute. The term "distribute" means to deliver to the actual or
16 constructive possession of another person, including transmission by mail or
17 electronic means.

18 (3) Intimate visual image. The term "intimate visual image" means a
19 visual image that depicts a private area of a person.

20 (4) Private area. The term "private area" means the naked or
21 underwear-clad genitalia, anus, buttocks, or female areola or nipple.

22 (5) Reasonable expectation of privacy. The term "reasonable expectation
23 of privacy" means circumstances in which a reasonable person would believe
24 that a private area of the person, or sexually explicit conduct involving the
25 person, would not be visible to the public.

26 (6) Sexually explicit conduct. The term "sexually explicit conduct"
27 means actual or simulated genital-genital contact, oral genital contact,
28 anal-genital contact, or oral-anal contact, whether between persons of the same
29 or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse.

1 (7) Visual image. The term "visual image" means all of the following:

2 (a) Any developed or undeveloped photograph, picture, film, or video.

3 (b) Any digital or computer image, picture, film, or video made by any
4 means, including those transmitted by any means, including streaming media,
5 even if not stored in a permanent format.

6 (c) Any digital or electronic data capable of conversion into a visual
7 image.

8 §220. Article 120. Sexual assault

9 A. Any person subject to this ~~code~~ **Code** who commits any of the following
10 acts is guilty of sexual assault and shall be punished as a court-martial may direct:

11 (1) A sexual act upon another person by any of the following:

12 (a) Threatening or placing another person in fear.

13 (b) ~~Causing bodily harm to another person.~~

14 ~~(c)~~ Making a fraudulent representation that the sexual act serves a
15 professional purpose.

16 ~~(d)~~**(c)** Inducing a belief by any artifice, pretense, or concealment that the
17 person is another person.

18 (2) A sexual act upon another person **without the consent of the other**
19 **person, or** when the person knows or reasonably should know that the other person
20 is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

21 (3) A sexual act upon another person when the other person is incapable of
22 consenting to the sexual act due to any of the following:

23 (a) Impairment by any drug, intoxicant, or other similar substance, and that
24 condition is known or reasonably should be known by the person.

25 (b) A mental disease or defect or physical disability, and that condition is
26 known or reasonably should be known by the person.

27 B. Any person subject to this ~~code~~ **Code** who commits or causes sexual
28 contact upon or by another person, if to do so would violate Subsection A of this
29 Section, had the sexual contact been a sexual act, is guilty of abusive sexual contact

1 and shall be punished as a court-martial may direct.

2 C. In a prosecution under this Section, in proving that a person made a threat,
3 it need not be proven that the person actually intended to carry out the threat or had
4 the ability to carry out the threat.

5 D. An accused may raise any applicable defenses available under this Chapter
6 or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in
7 any prosecution under this Section.

8 E. In this ~~code~~ **Code**, for purposes of this Section unless the context
9 otherwise requires, the following terms shall have the following meanings ascribed
10 herein:

11 (1) "Bodily harm" means any offensive touching of another, however slight,
12 including any nonconsensual sexual act or nonconsensual sexual contact.

13 (2) "Consent" means:

14 (a) A freely given agreement to the conduct at issue by a competent person.
15 An expression of lack of consent through words or conduct means there is no
16 consent. Lack of verbal or physical resistance ~~or submission resulting from the use~~
17 ~~of force, threat of force, or placing another person in fear~~ shall not constitute consent.
18 **Submission resulting from the use of force, threat of force, or placing another**
19 **person in fear also does not constitute consent.** A current or previous dating,
20 social, or sexual relationship by itself or the manner of dress of the person involved
21 with the accused in the conduct at issue shall not constitute consent.

22 (b) A sleeping, unconscious, or incompetent person cannot consent. A person
23 cannot consent to force causing or likely to cause death or grievous bodily harm or
24 to being rendered unconscious. A person cannot consent while under threat or fear
25 or under the circumstances described in Subparagraph (A)(1)(~~c~~) ~~or (d)~~ **(b) or (c)**.

26 ~~(c) Lack of consent may be inferred based on the circumstances of the~~
27 ~~offense.~~ All the surrounding circumstances shall be considered in determining
28 whether a person gave consent, ~~or whether a person did not resist or ceased to resist~~
29 ~~only because of another person's actions.~~

1 (3) "Force" means:
2 (a) The use of a weapon.
3 (b) The use of such physical strength or violence as is sufficient to overcome,
4 restrain, or injure a person.

5 (c) Inflicting physical harm sufficient to coerce or compel submission by the
6 victim.

7 (4) "Grievous bodily harm" means serious bodily injury and includes
8 fractured or dislocated bones, deep cuts, torn members of the body, serious damage
9 to internal organs, and other severe bodily injuries. Grievous bodily harm does not
10 include minor injuries such as a black eye or a bloody nose.

11 **(5) "Incapable of consenting" means the person is either:**

12 **(a) Incapable of appraising the nature of the conduct at issue.**

13 **(b) Physically incapable of declining participation in, or communicating**
14 **unwillingness to engage in, the sexual act at issue.**

15 ~~(5)~~**(6)** "Sexual act" means ~~either~~ **any** of the following:

16 (a) ~~Contact between the penis and the vulva or anus or mouth, and for~~
17 ~~purposes of this Subparagraph, contact involving the penis occurs upon penetration,~~
18 ~~however slight. The penetration, however slight, of the penis into the vulva, anus,~~
19 ~~or mouth.~~

20 (b) **Contact between the mouth and the penis, vulva, scrotum, or anus.**

21 (c) **The penetration, however slight, of the vulva or anus or mouth of**
22 **another by any part of the body or by any object, with an intent to abuse,**
23 **humiliate, harass, or degrade any person or to arouse or gratify the sexual**
24 **desire of any person.**

25 ~~(6)~~**(7)** "Sexual contact" means ~~either of the following:~~

26 (a) ~~Touching~~ **touching**, or causing another person to touch, either directly or
27 through the clothing, the ~~genitalia~~ **vulva, penis, scrotum,** anus, groin, breast, inner
28 thigh, or buttocks of any person, with an intent to abuse, humiliate, **harass,** or
29 degrade any person or **to arouse or gratify the sexual desire of any person.**

1 ~~(b) Any touching, or causing another person to touch, either directly or~~
 2 ~~through the clothing, any body part of any person, if done with an intent to arouse~~
 3 ~~or gratify the sexual desire of any person. Touching may be accomplished by any~~
 4 ~~part of the body~~ **or an object.**

5 ~~(7)~~**(8)** "Threatening or placing another person in fear" means a
 6 communication or action that is of sufficient consequence to cause a reasonable fear
 7 that noncompliance will result in the victim or another person being subjected to the
 8 wrongful action contemplated by the communication or action.

9 ~~(8)~~**(9)** "Unlawful force" means an act of force committed without legal
 10 justification or excuse.

11 **§220a. Article 120a. Stalking Mails; deposit of obscene matter**

12 ~~A. Any person subject to this code who commits all of the following acts is~~
 13 ~~guilty of stalking and shall be punished as a court-martial may direct:~~

14 ~~(1) Who wrongfully engages in a course of conduct directed at a specific~~
 15 ~~person that would cause a reasonable person to fear death or bodily harm, including~~
 16 ~~sexual assault, to the person or a member of the person's immediate family.~~

17 ~~(2) Who has knowledge, or should have knowledge, that the specific person~~
 18 ~~will be placed in reasonable fear of death or bodily harm, including sexual assault,~~
 19 ~~to the person or a member of the person's immediate family.~~

20 ~~(3) Whose acts induce reasonable fear in the specific person of death or~~
 21 ~~bodily harm, including sexual assault, to the person or to a member of the person's~~
 22 ~~immediate family.~~

23 ~~B. In this code, for purposes of this Section unless the context otherwise~~
 24 ~~requires, the following terms shall have the following meanings ascribed herein:~~

25 ~~(1) "Course of conduct" means either of the following:~~

26 ~~(a) A repeated maintenance of visual or physical proximity to a specific~~
 27 ~~person:~~

28 ~~(b) A repeated conveyance of verbal threat, written threats, or threats implied~~
 29 ~~by conduct, or a combination of such threats, directed at or towards a specific person.~~

1 ~~(2) "Immediate family", in the case of a specific person, means a spouse,~~
2 ~~parent, child, or sibling of the person, or any other family member, relative, or~~
3 ~~intimate partner of the person who regularly resides in the household of the person~~
4 ~~or who within the six months preceding the commencement of the course of conduct~~
5 ~~regularly resided in the household of the person.~~

6 ~~(3) "Repeated", with respect to conduct, means two or more occasions of~~
7 ~~such conduct.~~

8 **Any person subject to this Code who, wrongfully and knowingly,**
9 **deposits obscene matter for mailing and delivery shall be punished as a**
10 **court-martial may direct.**

11 * * *

12 **§221a. Article 121a. Fraudulent use of credit cards, debit cards, and other**
13 **access devices**

14 **A. Any person subject to this Code who, knowingly and with intent to**
15 **defraud, uses any of the following:**

16 **(1) A stolen credit card, debit card, or other access device.**

17 **(2) A revoked, cancelled, or otherwise invalid credit card, debit card, or**
18 **other access device.**

19 **(3) A credit card, debit card, or other access device without the**
20 **authorization of a person whose authorization is required for such use; to**
21 **obtain money, property, services, or anything else of value shall be punished as**
22 **a court-martial may direct.**

23 **B. For purposes of this Article, the term "access device" has the**
24 **meaning given that term in 18 U.S.C. §1029.**

25 **§221b. Article 121b. False pretenses to obtain services**

26 **Any person subject to this Code who, with intent to defraud, knowingly**
27 **uses false pretenses to obtain services shall be punished as a court-martial may**
28 **direct.**

29 **§222a. Article 122a. Receiving stolen property**

1 Any person subject to this Code who wrongfully receives, buys, or
2 conceals stolen property, knowing the property to be stolen property, shall be
3 punished as a court-martial may direct.

4 **§223. Article 123. Forgery Offenses concerning government computers**

5 ~~Any person subject to this code who, with intent to defraud:~~

6 ~~(1) falsely makes or alters any signature to, or any part of, any writing which~~
7 ~~would, if genuine, apparently impose a legal liability on another or change his legal~~
8 ~~right or liability to his prejudice; or~~

9 ~~(2) utters, offers, issues, or transfers such a writing, known by him to be so~~
10 ~~made or altered, is guilty of forgery and shall be punished as a court-martial may~~
11 ~~direct.~~

12 **A. Any person subject to this Code who does any of the following shall**
13 **be punished as a court-martial may direct:**

14 **(1) Knowingly accesses a government computer, with an unauthorized**
15 **purpose, and by doing so obtains classified information, with reason to believe**
16 **such information could be used to the injury of the United States, or to the**
17 **advantage of any foreign nation, and intentionally communicates, delivers,**
18 **transmits, or causes to be communicated, delivered, or transmitted such**
19 **information to any person not entitled to receive it.**

20 **(2) Intentionally accesses a government computer, with an unauthorized**
21 **purpose, and thereby obtains classified or other protected information from any**
22 **such government computer.**

23 **(3) Knowingly causes the transmission of a program, information, code,**
24 **or command, and as a result of such conduct, intentionally causes damage**
25 **without authorization to a government computer.**

26 **B. Definitions. In this Section:**

27 **(1) The term "computer" has the meaning given that term in 18 U.S.C.**
28 **§1030.**

29 **(2) The term "government computer" means a computer owned or**

1 operated by or on behalf of the United States Government or the State of
 2 Louisiana.

3 (3) The term "damage" has the meaning given that term in 18 U.S.C.
 4 §1030.

5 §223a. Article 123a. Making, drawing, or uttering check, draft, or order
 6 without sufficient funds

7 A. Any person subject to this Code who, for the procurement of any
 8 article or thing of value, with the intent to defraud, or for the payment of any
 9 past due obligation, or for any other purpose, with the intent to deceive, makes,
 10 draws, utters, or delivers any check, draft, or order for the payment of money
 11 upon any bank or other depository, knowing at the time that the maker or
 12 drawer has not or will not have sufficient funds in, or credit with, the bank or
 13 other depository for the payment of that check, draft, or order in full upon its
 14 presentment, shall be punished as a court-martial may direct.

15 B. The making, drawing, uttering, or delivering by a maker or drawer
 16 of a check, draft, or order, payment of which is refused by the drawee because
 17 of insufficient funds of the maker or drawer in the drawee's possession or
 18 control, is prima facie evidence of his intent to defraud or deceive and of his
 19 knowledge of insufficient funds in, or credit with, that bank or other depository,
 20 unless the maker or drawer pays the holder the amount due within five days
 21 after receiving notice, orally or in writing, that the check, draft, or order was
 22 not paid on presentment. In this Section, the word "credit" means an
 23 arrangement or understanding, express or implied, with the bank or other
 24 depository for the payment of that check, draft, or order.

25 ~~§232. Article 132.~~ §224. Article 124. Frauds against the government

26 Any person subject to this ~~code~~ Code:

27 (1) who, knowing it to be false or fraudulent

28 (a) makes any claim against the United States, the state, or any officer
 29 thereof; or

1 (b) presents to any person in the civil or military service thereof, for approval
2 or payment any claim against the United States, the state, or any officer thereof;

3 (2) who, for the purpose of obtaining the approval, allowance, or payment
4 of any claim against the United States, the state, or any officer thereof:

5 (a) makes or uses any writing or other paper knowing it to contain any false
6 or fraudulent statements;

7 (b) makes any oath to any fact or to any writing or other paper knowing the
8 oath to be false; or

9 (c) forges or counterfeits any signature upon any writing or other paper, or
10 uses any such signature knowing it to be forged and counterfeited;

11 (3) who, having charge, possession, custody, or control of any money, or
12 other property of the United States or the state, furnished or intended for the armed
13 forces of the United States or the state military forces, knowingly delivers to any
14 person having authority to receive it, any amount thereof less than that for which he
15 receives a certificate or receipt; or

16 (4) who, being authorized to make or deliver any paper certifying the receipt
17 of any property of the United States or the state, furnished or intended for the armed
18 forces of the United States or the state military forces, makes or delivers to any
19 person such writing without having full knowledge of the truth of the statements
20 therein contained and with intent to defraud the United States or the state; shall upon
21 conviction, be punished as a court-martial may direct.

22 ~~§220a. Article 130a.~~ **§230. Article 130.** Stalking

23 A. Any person subject to this ~~code~~ **Code** who commits all of the following
24 acts is guilty of stalking and shall be punished as a court-martial may direct:

25 (1) Who wrongfully engages in a course of conduct directed at a specific
26 person that would cause a reasonable person to fear death or bodily harm, including
27 sexual assault, to the person or a member of the person's immediate family.

28 (2) Who has knowledge, or should have knowledge, that the specific person
29 will be placed in reasonable fear of death or bodily harm, including sexual assault,

1 to the person or a member of the person's immediate family.

2 (3) Whose acts induce reasonable fear in the specific person of death or
3 bodily harm, including sexual assault, to the person or to a member of the person's
4 immediate family.

5 B. In this ~~code~~ **Code**, for purposes of this Section unless the context
6 otherwise requires, the following terms shall have the following meanings ascribed
7 herein:

8 (1) "Course of conduct" means either of the following:

9 (a) A repeated maintenance of visual or physical proximity to a specific
10 person.

11 (b) A repeated conveyance of verbal threat, written threats, or threats implied
12 by conduct, or a combination of such threats, directed at or towards a specific person.

13 (2) "Immediate family", in the case of a specific person, means a spouse,
14 parent, child, or sibling of the person, or any other family member, relative, or
15 intimate partner of the person who regularly resides in the household of the person
16 or who within the six months preceding the commencement of the course of conduct
17 regularly resided in the household of the person.

18 (3) "Repeated", with respect to conduct, means two or more occasions of
19 such conduct.

20 * * *

21 **§231a. Article 131a. Subornation of perjury**

22 **A. In General. Any person subject to this Code who induces and**
23 **procures another person to take an oath and to falsely testify, depose, or state**
24 **upon such oath, shall, if the conditions specified in Subsection B of this Section**
25 **are satisfied, be punished as a court-martial may direct.**

26 **B. Conditions. For the purposes of this Section, the conditions shall**
27 **include all of the following:**

28 **(1) The oath is administered with respect to a matter for which such oath**
29 **is required or authorized by law.**

1 (2) The oath is administered by a person having authority to do so.

2 (3) Upon the oath, the other person willfully makes or subscribes a
3 statement.

4 (4) The statement is material.

5 (5) The statement is false.

6 (6) When the statement is made or subscribed, the person subject to this
7 Code and the other person do not believe that the statement is true.

8 §231b. Article 131b. Obstructing justice

9 Any person subject to this Code who engages in conduct in the case of a
10 certain person against whom the accused had reason to believe there were or
11 would be criminal or disciplinary proceedings pending, with intent to influence,
12 impede, or otherwise obstruct the due administration of justice shall be
13 punished as a court-martial may direct.

14 §231c. Article 131c. Misprision of serious offense

15 Any person subject to this Code who knows that another person has
16 committed a serious offense and wrongfully conceals the commission of the
17 offense and fails to make the commission of the offense known to civilian or
18 military authorities as soon as possible shall be punished as a court-martial may
19 direct.

20 §231d. Article 131d. Wrongful refusal to testify

21 Any person subject to this Code who, in the presence of a court-martial,
22 a board of officers, a military commission, a court of inquiry, preliminary
23 hearing, or an officer taking a deposition, of or for the United States, wrongfully
24 refuses to qualify as a witness or to answer a question after having been directed
25 to do so by the person presiding shall be punished as a court-martial may direct.

26 §231e. Article 131e. Prevention of authorized seizure of property

27 Any person subject to this Code who, knowing that one or more persons
28 authorized to make searches and seizures are seizing, are about to seize, or are
29 endeavoring to seize property, destroys, removes, or otherwise disposes of the

1 property with intent to prevent the seizure thereof shall be punished as a
 2 court-martial may direct.

3 ~~§198. Article 98.~~ **§231f. Article 131f.** Noncompliance with procedural rules

4 Any person subject to this ~~code~~ **Code** who:

5 (1) is responsible for unnecessary delay in the disposition of any case of a
 6 person accused of an offense under this ~~code~~ **Code**; or

7 (2) knowingly and intentionally fails to enforce or comply with any
 8 provision of this ~~code~~ **Code** regulating the proceedings before, during, or after trial
 9 of an accused; shall be punished as a court-martial may direct.

10 **§232. Article 132.** ~~Frauds against the government~~ **Retaliation**

11 ~~Any person subject to this code:~~

12 ~~(1) who, knowing it to be false or fraudulent~~

13 ~~(a) makes any claim against the United States, the state, or any officer~~
 14 ~~thereof; or~~

15 ~~(b) presents to any person in the civil or military service thereof, for approval~~
 16 ~~or payment any claim against the United States, the state, or any officer thereof;~~

17 ~~(2) who, for the purpose of obtaining the approval, allowance, or payment of~~
 18 ~~any claim against the United States, the state, or any officer thereof:~~

19 ~~(a) makes or uses any writing or other paper knowing it to contain any false~~
 20 ~~or fraudulent statements;~~

21 ~~(b) makes any oath to any fact or to any writing or other paper knowing the~~
 22 ~~oath to be false; or~~

23 ~~(c) forges or counterfeits any signature upon any writing or other paper, or~~
 24 ~~uses any such signature knowing it to be forged and counterfeited;~~

25 ~~(3) who, having charge, possession, custody, or control of any money, or~~
 26 ~~other property of the United States or the state, furnished or intended for the armed~~
 27 ~~forces of the United States or the state military forces, knowingly delivers to any~~
 28 ~~person having authority to receive it, any amount thereof less than that for which he~~
 29 ~~receives a certificate or receipt; or~~

1 ~~(4) who, being authorized to make or deliver any paper certifying the receipt~~
2 ~~of any property of the United States or the state, furnished or intended for the armed~~
3 ~~forces of the United States or the state military forces, makes or delivers to any~~
4 ~~person such writing without having full knowledge of the truth of the statements~~
5 ~~therein contained and with intent to defraud the United States or the state, shall upon~~
6 ~~conviction, be punished as a court-martial may direct.~~

7 **A. In General. Any person subject to this Code who, with the intent to**
8 **retaliate against any person for reporting or planning to report a criminal**
9 **offense, or making or planning to make a protected communication, or with the**
10 **intent to discourage any person from reporting a criminal offense or making or**
11 **planning to make a protected communication, wrongfully takes or threatens to**
12 **take an adverse personnel action against any person or wrongfully withholds or**
13 **threatens to withhold a favorable personnel action with respect to any person**
14 **shall be punished as a court-martial may direct.**

15 **B. Definitions. In this Section:**

16 **(1) The term "protected communication" means the following:**

17 **(a) A lawful communication to a member of the United States Congress**
18 **or an inspector general.**

19 **(b) A communication to a covered individual or organization in which**
20 **a member of the armed forces complains of, or discloses information that the**
21 **member reasonably believes constitutes evidence of, any of the following:**

22 **(i) A violation of law or regulation, including a law or regulation**
23 **prohibiting sexual harassment or unlawful discrimination.**

24 **(ii) Gross mismanagement, a gross waste of funds, an abuse of authority,**
25 **or a substantial and specific danger to public health or safety.**

26 **(2) The term "inspector general" has the meaning given that term in 10**
27 **U.S.C. §1034(j).**

28 **(3) The term "covered individual or organization" means any recipient**
29 **of a communication specified in clauses (i) through (v) of 10 U.S.C.**

- 1 **§1034(b)(1)(B).**
- 2 **(4) The term "unlawful discrimination" means discrimination on the**
- 3 **basis of race, color, religion, sex, or national origin.**

The original instrument was prepared by Alan Miller. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle D. Ridge.

DIGEST

SB 319 Engrossed 2022 Regular Session Foil

Present law provides relative to the La. Code of Military Justice (LCMJ) which is substantially similar to the federal Uniform Code of Military Justice (UCMJ).

Proposed law redesignates certain provisions of law contained in the LCMJ to conform with the corresponding Articles in the UCMJ with no change to present law.

Proposed law adds the offense of unauthorized insignia, decoration, badge, ribbon, device, or lapel button to the LCMJ, and provides that any person subject to the LCMJ who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button and who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing shall be punished as a court-martial may direct.

Proposed law adds endangerment offenses to the LCMJ, which includes reckless endangerment, dueling, firearm discharge, endangering human life, and carrying a concealed weapon.

Proposed law adds communicating threats to the LCMJ, which includes communicating threats generally, communicating threats to use explosive, and communicating false threats concerning use of explosive.

Proposed law defines a "false threat" as a threat that at the time the threat is communicated is known to be false by the person communicating the threat.

Proposed law adds wrongful broadcast or distribution of intimate visual images to the LCMJ.

Proposed law defines an "intimate visual image" as a visual image that depicts the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

Present law provides for the offense of sexual assault as a sexual act upon another person by any of the following:

- (1) Threatening or placing another person in fear.
- (2) Causing bodily harm to another person.
- (3) Making a fraudulent representation that the sexual act serves a professional purpose.
- (4) Inducing a belief by any artifice, pretense, or concealment that the person is another person.

Proposed law removes the element of causing bodily harm to another person.

Proposed law adds the offense of depositing obscene matters in the mail to the LCMJ.

Proposed law adds the offense of fraudulent use of credit cards, debit cards, and other access devices to the LCMJ.

Proposed law adds the offense of using false pretenses to obtain services to the LCMJ.

Proposed law adds the offense of receiving stolen property to the LCMJ.

Proposed law adds offenses concerning government computers to the LCMJ. These offense include any of the following:

- (1) Knowingly accessing a government computer, with an unauthorized purpose, and by doing so obtaining classified information, with reason to believe such information could be used to the injury of the U. S., or to the advantage of any foreign nation, and intentionally communicating, delivering, transmitting, or causing to be communicated, delivered, or transmitted such information to any person not entitled to receive it.
- (2) Intentionally accessing a government computer, with an unauthorized purpose, and thereby obtaining classified or other protected information from any such government computer.
- (3) Knowingly causing the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causing damage without authorization to a government computer.

Proposed law adds the offense of making, drawing, or uttering a check, draft, or order without sufficient funds to the LCMJ.

Proposed law adds the offenses of subornation of perjury, obstructing justice and misprision of serious offense, and wrongful refusal to testify to the LCMJ.

Proposed law adds the offense of prevention of authorized seizure of property to the LCMJ which includes any person subject to this code who, knowing that one or more persons authorized to make searches and seizures are seizing, are about to seize, or are endeavoring to seize property, destroys, removes, or otherwise disposes of the property with intent to prevent the seizure thereof shall be punished as a court-martial may direct.

Proposed law adds the offense of retaliation to the LCMJ.

Effective August 1, 2022.

(Amends and redesignates R.S. 29:183, 198, 205, 215, 220, 220a, 223 and 232; adds R.S. 29:204a, 206a, 214, 217a, 221a, 221b, 222a, 223a, 224, 230, 231a, 231b, 231c, 231d, 231e, and 231f)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical changes.