

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Military department-discrimination or harassment grievances.

Sponsored by: Joint Transportation, Highways & Military
Affairs Interim Committee

A BILL

for

1 AN ACT relating to discrimination and harassment grievances
2 involving the Wyoming national guard or military department;
3 providing the Wyoming military department processes for
4 reporting discrimination and sexual harassment; requiring
5 agreements between the military department and the department
6 of workforce services; specifying duties and powers of the
7 department of workforce services and adjutant general;
8 authorizing a position; appropriating funds; requiring
9 rulemaking; and providing for effective dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1 **Section 1.** W.S. 19-9-404 is created to read:

2

3 19-9-404. Complaints of wrongs; Uniform Code of
4 Military Justice Article 138-similar procedure.

5

6 Any member of the Wyoming national guard who believes himself
7 to have been wronged by a commanding officer, and who, upon
8 due application to that commanding officer, is refused
9 redress may complain to any superior commissioned officer.
10 The superior commissioned officer shall forward the complaint
11 to the adjutant general. The adjutant general shall examine
12 the complaint and take proper measures for redressing the
13 wrong complained of and shall, as soon as possible, send to
14 the appropriate governor a true statement of that complaint,
15 with the proceedings had thereon. The provisions of this
16 section may be exercised in addition to or in lieu of the
17 applicable procedures in W.S. 19-7-103(b)(xxv).

18 *****
19 STAFF COMMENT
20 This is changed to be relevant to the WYMD, but per Committee
21 instructions this is modeled after Article 138 in the UCMJ,
22 10 U.S. Code § 938 - Art. 138. Complaints of wrongs, which
23 reads:

24 Any member of the armed forces who believes himself
25 wronged by his commanding officer, and who, upon
26 due application to that commanding officer, is
27 refused redress, may complain to any superior
28 commissioned officer, who shall forward the

1 complaint to the officer exercising general court-
2 martial jurisdiction over the officer against whom
3 it is made. The officer exercising general court-
4 martial jurisdiction shall examine into the
5 complaint and take proper measures for redressing
6 the wrong complained of; and he shall, as soon as
7 possible, send to the Secretary concerned a true
8 statement of that complaint, with the proceedings
9 had thereon.

10 *****
11

12 Section 2. W.S. 19-7-103(b) by creating a new paragraph
13 (xxv), 27-9-102(b) and 27-9-104(a)(v) and by creating a new
14 paragraph (viii) are amended to read:

15
16 19-7-103. Adjutant general; appointment; rank;
17 removal; duties and qualifications.

18
19 (b) The adjutant general of Wyoming shall have powers
20 and duties and be paid a salary as follows:

21
22 (xxv) He shall enter into agreements, exchange
23 information and otherwise assist the department of workforce
24 services to counsel, mediate, investigate and determine
25 claims by members of the Wyoming national guard and employees
26 of the military department under the federal laws enforced by
27 the equal employment opportunity commission or under
28 W.S. 27-9-105, as applicable. He shall promulgate rules that

1 coordinate with the department of workforce services rules
2 promulgated under W.S. 27-9-104(a)(viii) to accomplish the
3 powers and duties in this paragraph and
4 W.S. 27-9-104(a)(viii), consistent with equal employment
5 opportunity commission rules and requirements and federal
6 law. Nothing in this paragraph prevents a state employee of
7 the military department claiming to be aggrieved by an
8 employment practice specified as discriminatory or unfair in
9 W.S. 27-9-105 from filing with the department of workforce
10 services a complaint in accordance with W.S. 27-9-106.

11
12 **27-9-102. Definitions.**

13
14 (b) "Employer" shall mean the state of Wyoming or any
15 political subdivision or board, commission, department,
16 institution or school district thereof, and every other
17 person employing two (2) or more employees within the state;
18 but it does not mean religious organizations or associations.
19 "Employer" shall include those divisions of the Wyoming
20 military department that are authorized by federal authority.

21
22 **27-9-104. Powers and duties of department of**
23 **employment.**

1

2 (a) The department shall have the following powers and
3 duties:

4

5 (v) For the purposes of all counseling, mediation
6 or investigations the department shall have the power to issue
7 subpoenas requiring the attendance and testimony of witnesses
8 and the production of any books, papers, documents or records
9 ~~which~~that the department deems relevant or material to the
10 inquiry or determination;

11

12 (viii) To enter into agreements, exchange
13 information and otherwise assist the Wyoming military
14 department to counsel, mediate, investigate and determine
15 claims by members of the Wyoming national guard and employees
16 of the military department under this chapter or claims under
17 the federal laws enforced by the equal employment opportunity
18 commission, as applicable, and to promulgate rules that
19 coordinate with the military department rules promulgated
20 under W.S. 19-7-103(b)(xxv) to accomplish the powers and
21 duties in this paragraph and W.S. 19-7-103(b)(xxv),
22 consistent with equal employment opportunity commission rules
23 and requirements and federal law.

1

2 **Section 3.** Not later than July 1, 2022, the military
3 department and the department of workforce services shall
4 each promulgate rules necessary to implement this act.

5

6 **Section 4.**

7

8 (a) There is appropriated two hundred one thousand one
9 hundred eighty-eight dollars (\$201,188.00) from the general
10 fund to the department of workforce services for salaries,
11 benefits, necessary equal employment opportunity commission
12 training, necessary travel expenses, necessary office and
13 investigation equipment, necessary computer hardware and
14 software, necessary supplies and any other necessary expenses
15 for implementing and carrying out counseling, mediation,
16 investigations and determinations as provided for in
17 W.S. 19-7-103(b)(xxv) as created by this act and the Wyoming
18 Fair Employment Practices Act of 1965 as amended by this act.
19 This appropriation shall be for the period beginning with the
20 effective date of this section and ending June 30, 2024. This
21 appropriation shall not be transferred or expended for any
22 other purpose and any unexpended, unobligated funds remaining

1 from this appropriation shall revert as provided by law on
2 June 30, 2024.

3
4 (b) One (1) full-time equivalent position is authorized
5 to the department of workforce services to carry out
6 counseling, mediation, investigations and determinations to
7 implement this act as provided for in W.S. 19-7-103(b)(xxv)
8 as created by this act and to implement the Wyoming Fair
9 Employment Practices Act of 1965 as amended by this act. This
10 position shall be authorized for the period beginning with
11 the effective date of this section and ending June 30, 2024.

12
13 (c) It is the intent of the legislature that the
14 position authorized in this section and the funding provided
15 in this section shall be included in the department of
16 workforce services' standard budget for the immediately
17 succeeding fiscal biennium. The department of workforce
18 services may include in an exception budget request for the
19 2023-2024 biennium or for the 2025-2026 biennium such funds
20 and positions as it determines necessary to support the duties
21 and responsibilities created by this act.

1 **Section 5.**

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3 (a) Except as provided in subsection (b) of this
4 section, this act is effective immediately upon completion of
5 all acts necessary for a bill to become law as provided by
6 Article 4, Section 8 of the Wyoming Constitution.

7

8 (b) Section 1 of this act is effective July 1, 2022.

9

(END)