

35.195 Action permitted by military judge alone -- When members exclusively to be present.

- (1) At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may call the court into session without the presence of the members for:
 - (a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty; or
 - (b) Hearing and ruling upon any matter which may be ruled upon by the military judge whether or not the matter is appropriate for later consideration or decision by the members of the court; or
 - (c) If permitted by the regulations of the Governor holding the arraignment and receiving the pleas of the accused; and
 - (d) Performing any other procedural function which may be performed by the military judge under KRS 35.180 which does not require the presence of the members of the court. These proceedings shall be conducted in the presence of the accused, defense counsel and trial counsel and shall be made part of the record.
- (2) Whenever a general or special court-martial deliberates or votes, only the members of the court may be present. All other proceedings, including any consultation of the court with counsel or the military judge shall be made part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel and the military judge.

History: Amended 1970 Ky. Acts ch. 56, sec. 25. -- Created 1954 Ky. Acts ch. 99, sec. 38, effective July 1, 1954.