

29B.40 Sessions.

At any time after the service of charges referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to this chapter, call the court into session without the presence of the members for the purpose of any of the following:

1. 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.
2. Hearing and ruling upon any matter which may be ruled upon by the military judge under this code, whether or not the matter is appropriate for later consideration or decision by the members of the court.
3. If permitted by rules of the adjutant general holding the arraignment and receiving the pleas of the accused.
4. Performing any other procedural function which may be performed by the military judge under this code or under rules adopted pursuant to this code and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge.

[C66, 71, 73, 75, 77, 79, 81, § 29B.40; 82 Acts, ch 1042, § 23]