

39-6-32 Military court -- Session -- Procedures.

- (1) After the service of charges has been referred for trial to a military court composed of a military judge and members, the military judge may, subject to Section 39-6-28, call the court into session. The session shall be made a part of the record, and shall be in the presence of the accused, the defense counsel, and the trial counsel.
- (2) The session may be conducted without the presence of the members. A session under this subsection may be conducted for the following purposes:
 - (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;
 - (b) hearing and ruling upon any matter a military judge under this chapter may rule upon, whether or not the matter is appropriate for later consideration or decision by the members of the court;
 - (c) holding the arraignment and receiving the pleas of the accused, if permitted by regulations prescribed by the governor or adjutant general; or
 - (d) performing any other procedural function that may be performed by the military judge under this chapter or under rules prescribed under Section 39-6-39 and which does not require the presence of the members of the court.
- (3) When the members of a military court 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, and the military judge.

Enacted by Chapter 210, 1988 General Session