

35.010 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

- (1) "State" means one (1) of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands;
- (2) "Cadet," "candidate," or "midshipman" means a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the state military forces;
- (3) "Officer" means a commissioned or warrant officer;
- (4) "Superior commissioned officer" means a commissioned officer superior in rank or command;
- (5) "Enlisted member" means a person in an enlisted grade;
- (6) "State active duty" means full-time military duty in the state military forces under an order of the Governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from the duty;
- (7) "Military court" means a court-martial or a court of inquiry;
- (8) "Military judge" means an official of a general and special court-martial detailed in accordance with KRS 35.125;
- (9) "Classified information" means:
 - (a) Any information or material that has been determined by an official of the United States or any state pursuant to law, an executive order, or regulation to require protection against unauthorized disclosure for reasons of national or state security; and
 - (b) Any restricted data, as defined in the Atomic Energy Act of 1954, 42 U.S.C. sec. 2014(y);
- (10) "Code" means this chapter;
- (11) "National security" means the national defense and foreign relations of the United States;
- (12) "Commanding officer" includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment under KRS 35.070. The term "commander" has the same meaning unless the context otherwise requires;
- (13) "Day" means calendar day and is not synonymous with the term "unit training assembly." Any punishment authorized by this chapter which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean succeeding duty days;
- (14) "Record," when used in connection with the proceedings of a court-martial, means:
 - (a) An official written transcript, written summary, or other writing relating to the proceedings; or
 - (b) An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced;
- (15) "Duty status other than state active duty" means any other type of duty not in

federal service and not full-time in the active service of the state, under an order issued by authority of law and includes travel to and from the duty;

- (16) "Judge advocate" means a commissioned officer of the organized state military forces who is a member in good standing of the bar of the highest court of a state, and is:
- (a) Certified or designated as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy, Marine Corps, or Coast Guard, or a reserve component of one (1) of these; or
 - (b) Certified as a non-federally recognized judge advocate, under regulations promulgated pursuant to this provision, by the senior judge advocate of the commander of the force in the state military forces of which the accused is a member, as competent to perform those military justice duties required by this code. If there is no judge advocate available, then the certification may be made by a senior judge advocate of the commander of another force in the state military forces, as the convening authority directs;
- (17) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;
- (18) "Military" refers to any or all of the Armed Forces;
- (19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command to the convening authority;
- (20) "Officer in charge" means a member of the naval militia, the Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority;(21)
"Senior force commander" means the commander of the same force of the state military forces as the accused;
- (22) "Senior force judge advocate" means the senior judge advocate of the commander of the same force of the state military forces as the accused and who is that commander's chief legal advisor;
- (23) "State military forces" means the Kentucky National Guard as defined in Title 32 of the United States Code and as organized under the Constitution and laws of the Commonwealth of Kentucky. The unorganized militia, state defense force, state national guard, home guard, or any other name of any state force that does not meet this definition shall not be part of the "state military forces" under this code; and
- (24) "Military offenses" means those offenses prescribed under KRS 35.440, 35.442, 35.450, 35.451, 35.470, 35.471, 35.472, 35.473, 35.474, 35.4751, 35.476, 35.478, 35.481, 35.486, 35.491, 35.575, 35.577, 35.580, 35.585, 35.590, 35.595, 35.600, 35.605, 35.609, 35.614, 35.620, 35.625, 35.630, 35.635, 35.637, 35.640, 35.642, 35.645, 35.650, 35.652, 35.654, 35.657, 35.660, 35.665, 35.671, 35.725, 35.727, and 35.730.

Effective: June 25, 2013

History: Amended 2013 Ky. Acts ch. 32, sec. 6, effective June 25, 2013. -- Amended 2007 Ky. Acts ch. 85, sec. 118, effective June 26, 2007. -- Amended 1992 Ky. Acts ch. 307, sec. 1, effective April 9, 1992 -- Amended 1986 Ky. Acts

ch. 239, sec. 1, effective July 15, 1986. -- Amended 1970 Ky. Acts ch. 56, sec. 1. -- Created 1954 Ky. Acts ch. 99, sec. 1, effective July 1, 1954.

Legislative Research Commission Note (6/25/2013). In subsection (24) of this statute, the list of KRS sections has been corrected. During the 2013 Regular Session of the General Assembly, the amendments to the Model State Code of Military Justice appeared in House Bill 362 and House Bill 167. The section numbers in these bills changed several times when alternative versions of the bills were introduced, but some of the internal references in subsection (24) of this statute (2013 Ky. Acts ch. 32, sec. 6) were inadvertently not corrected to correspond to those changes. Under the authority of KRS 7.136(1), the Reviser of Statutes has corrected those references to match the list that appears in Article 1(a)(14) of the Model State Code of Military Justice.