

REVISOR'S NOTE: This section presently appears as Art. 42, §1. The only changes made are in style.

SEC. 3-702. PERSON WHO MAY APPLY FOR WRIT.

(A) PETITION.

A PERSON COMMITTED, DETAINED, CONFINED, OR RESTRAINED FROM HIS LAWFUL LIBERTY WITHIN THE STATE FOR ANY ALLEGED OFFENSE OR UNDER ANY COLOR OR PRETENSE OR ANY PERSON IN HIS BEHALF, MAY PETITION FOR THE WRIT OF HABEAS CORPUS TO THE END THAT THE CAUSE OF THE COMMITMENT, DETAINER, CONFINEMENT, OR RESTRAINT MAY BE INQUIRED INTO.

(B) PROCEDURE UPON RECEIVING PETITION.

UPON RECEIVING THE PETITION, A JUDGE SHALL GRANT THE WRIT OF HABEAS CORPUS IMMEDIATELY, IF IT APPEARS THAT THE PETITIONER IS ENTITLED TO THE RELIEF.

REVISOR'S NOTE: This section presently appears as Art. 42, §3. This section is divided into two subsections for the purpose of clarity. Subsection (a) is revised with a view to Rule 41. The term "application" is replaced with "petition" because "application" for the writ of habeas corpus is by "petition". See Vol. 2 Poe - Pleading and Practice, Tiffany's Edition, §720. The only other changes made are in style.

SEC. 3-703. DISCRETION OF JUDGE WHEN PRIOR WRIT HAS BEEN REFUSED.

(A) [[ISSUANCE OF WRIT WHEN HEARING ON PRIOR PETITION FOR RELEASE WAS GRANTED]] ISSUANCE OF WRIT WHEN HEARING WAS HELD ON PRIOR PETITION FOR RELEASE.

IF IT APPEARS TO THE JUDGE FROM THE PETITION FOR THE WRIT OR OTHERWISE, THAT A PETITIONER, CONFINED AS A RESULT OF SENTENCE FOR A CRIMINAL OFFENSE, JUDGMENT IN A JUVENILE PROCEEDING, OR AS A DEFECTIVE DELINQUENT, HAS PREVIOUSLY BEEN GIVEN A HEARING ON A PRIOR PETITION FOR RELEASE FROM CONFINEMENT UNDER THE SAME COMMITMENT, IT IS DISCRETIONARY WITH THE JUDGE WHETHER OR NOT TO ISSUE THE WRIT.

(B) FACTORS TO BE CONSIDERED.