

IN EXERCISING HIS DISCRETION THE JUDGE MAY CONSIDER WHETHER NEW GROUNDS OF A SUBSTANTIAL NATURE APPEAR TO EXIST FOR GRANTING OF THE WRIT OR WHETHER THE GROUNDS FOR THE ISSUANCE OF ANY FORMER WRIT WERE FULLY AND ADEQUATELY PRESENTED.

REVISOR'S NOTE: This section presently appears as Art. 42, §4. The only changes made are in style.

SEC. 3-704. INQUIRY INTO LEGALITY OF DETENTION AND RELEASE OR REMAND.

(A) INQUIRY.

ON RETURN OF A WRIT OF HABEAS CORPUS AND PRODUCTION OF A PERSON AND CAUSE OF HIS DETENTION BEFORE A JUDGE, THE JUDGE SHALL IMMEDIATELY INQUIRE INTO THE LEGALITY AND PROPRIETY OF THE CONFINEMENT OR DETENTION.

(B) RELEASE OR DISCHARGE.

IF IT APPEARS TO THE JUDGE THAT THE PERSON IS DETAINED WITHOUT LEGAL WARRANT OR AUTHORITY, HE SHALL RELEASE OR DISCHARGE THE PERSON IMMEDIATELY.

(C) REMAND TO CUSTODY OR ADMISSION TO BAIL.

IF THE JUDGE CONSIDERS THE DETENTION LAWFUL AND PROPER, THE PERSON SHALL BE:

(1) REMANDED TO CUSTODY; OR

(2) ADMITTED TO BAIL.

(D) TAKING RECOGNIZANCE FOR APPEARANCE BEFORE COURT.

IF THE PERSON IS ADMITTED TO BAIL, THE JUDGE SHALL TAKE A RECOGNIZANCE FOR HIS APPEARANCE IN COURT AND TRANSMIT IT TO A COURT HAVING JURISDICTION OVER THE OFFENSE CHARGED.

REVISOR'S NOTE: This section is new language derived from Art. 42, §14. This section is divided into four subsections because of the diversity of the provisions. In subsection (a), the provision dealing with jurisdiction of the detained person "before the court or judge who granted the writ" is