

REVISOR'S NOTE: This section is new language derived from Art. 42, §17. This section is modified to reflect the present practice.

SEC. 3-706. DISCHARGE FOR UNCONSTITUTIONALITY OF LAW.

(A) MEMORANDUM TO BE FILED AFTER DISCHARGE FOR UNCONSTITUTIONALITY OF LAW.

IF A PERSON IS RELEASED OR DISCHARGED BY A JUDGE UNDER THE WRIT OF HABEAS CORPUS ON THE GROUND THAT THE LAW UNDER WHICH THE PERSON WAS CONVICTED IS UNCONSTITUTIONAL, IN WHOLE OR IN PART, THE JUDGE SHALL FILE A MEMORANDUM WITHIN FIVE DAYS AFTER THE RELEASE OR DISCHARGE AND TRANSMIT IT WITH ORIGINAL PAPERS IN THE CASE TO THE CLERK OF THE COURT OF SPECIAL APPEALS.

(B) OPINION OF COURT OF SPECIAL APPEALS.

(1) THE COURT OF SPECIAL APPEALS SHALL CONSIDER THE MEMORANDUM AND THE ORIGINAL PAPERS AT THE EARLIEST FEASIBLE TIME AND RENDER ITS OPINION.

(2) THE OPINION HAS THE SAME EFFECT AS AN OPINION FILED IN A CASE FORMALLY HEARD AND DETERMINED BY THE COURT ON AN APPEAL.

REVISOR'S NOTE: This section is new language derived from Art. 42, §19. This section is divided in two subsections to emphasize the sequence of procedure when a person is discharged for unconstitutionality of law. The wording of the draft is similar to Rule Z56.

The phrase "is unconstitutional and void, in whole or in part because contrary to the Constitution or Bill of Rights of this State, or because contrary to the Constitution of the United States" is shortened to avoid a redundancy and replaced with "is unconstitutional in whole or in part".

SEC. 3-707. APPLICATION FOR LEAVE TO APPEAL IN REGARD TO BAIL.

(A) IN GENERAL.

IF A JUDGE REFUSES TO ISSUE A WRIT OF HABEAS CORPUS SOUGHT FOR THE PURPOSE OF DETERMINING THE RIGHT