

SHALL BE ONE THAT SITS WITHIN THE COUNTY IN WHICH THE OFFENSE ALLEGEDLY WAS COMMITTED.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 66 1/2, §16-111.

26-402. RELEASE OF DEFENDANT IF COMMISSIONER NOT AVAILABLE.

(A) EXCEPTION.

THIS SECTION DOES NOT APPLY IF THE ALLEGED OFFENSE IS ANY FELONY OR ANY OFFENSE ENUMERATED IN §26-201(A) (1) THROUGH (4) AND ~~(7)~~ OF THIS TITLE.

(B) IN GENERAL.

IF A POLICE OFFICER ARRESTS A PERSON AND TAKES HIM BEFORE A DISTRICT COURT COMMISSIONER AS PROVIDED IN THIS TITLE, THE PERSON SHALL BE RELEASED ON ISSUANCE OF A WRITTEN CITATION IF:

(1) A COMMISSIONER IS NOT AVAILABLE;

(2) A JUDGE, CLERK, OR OTHER PUBLIC OFFICER, AUTHORIZED TO ACCEPT BAIL FOR THE COURT IS NOT AVAILABLE; AND

(3) THE PERSON CHARGED GIVES HIS WRITTEN PROMISE TO APPEAR IN COURT AS PROVIDED IN §26-205(F) OF THIS TITLE.

REVISOR'S NOTE: This section presently appears as Art. 66 1/2, §16-112.

In subsection (a) of this section, a reference to §26-201(a) (7) is added. Present §16-105 was amended by Ch. 534, Acts of 1970, to add a new subsection (a) (7) - "reckless driving" - to the list of enumerated offenses. By inadvertence, the cross-references in §16-112 were not conformed. The added reference here corrects the oversight.

In subsection (b) of this section, the present, additional requirement that "there [be] no bail schedule established" is deleted. The mandate for releasing a person under this section is operative only if each of the requirements, listed in the conjunctive, are met; literally, therefore, the entire section should have become inoperative in July 1971 with the creation of an Interim Bail Schedule by the District Court, even in cases where there is no authorized person available to accept the bail that has been established. This clearly illogical result is avoided and