

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 16.**  
**PARTICULAR ACTIONS, PROCEEDINGS**  
**AND MATTERS.**

**CHAPTER 19.**  
**HABEAS CORPUS.**

**2001 Edition**

# DISTRICT OF COLUMBIA OFFICIAL CODE

## CHAPTER 19. HABEAS CORPUS.

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### TABLE OF CONTENTS

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§ 16-1901. Petition; issuance of writ.

§ 16-1902. Service of writ; return.

§ 16-1903. Suspected evasion or disobedience of writ; procedure.

§ 16-1904. Forfeiture and penalty for failure to produce.

§ 16-1905. Right to copy of commitment; forfeiture.

§ 16-1906. Inquiry into cause of detention; bail; bond.

§ 16-1907. Traversing return; pleading; witnesses.

§ 16-1908. Right of other persons to writ.

§ 16-1909. Construction of chapter.

# CHAPTER 19. HABEAS CORPUS.

## § 16-1901. PETITION; ISSUANCE OF WRIT.

(a) A person committed, detained, confined, or restrained from his lawful liberty within the District, under any color or pretense whatever, or a person in his behalf, may apply by petition to the appropriate court, or a judge thereof, for a writ of habeas corpus, to the end that the cause of the commitment, detainer, confinement, or restraint may be inquired into. The court or the judge applied to, if the facts set forth in the petition make a prima facie case, shall forthwith grant the writ, directed to the officer or other person in whose custody or keeping the party so detained is returnable forthwith before the court or judge.

(b) Petitions for writs directed to Federal officers and employees shall be filed in the United States District Court for the District of Columbia.

(c) Petitions for writs directed to any other person shall be filed in the Superior Court of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 583, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 560, Pub. L. 91-358, title I, § 145(h)(1).)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 16-1901.

1973 Ed., § 16-1901.

## § 16-1902. SERVICE OF WRIT; RETURN.

A writ of habeas corpus issued pursuant to this chapter shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the prison or place at which the party suing it out is detained. The officer or other person shall forthwith, or within such reasonable time as the court or judge directs:

- (1) make return of the writ and cause the person detained to be brought before the court or judge, according to the command of the writ; and
- (2) certify the true cause of his detainer or imprisonment, if any, and under what color or pretense he is confined or restrained of his liberty.

(Dec. 23, 1963, 77 Stat. 583, Pub. L. 88-241, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 16-1902.

1973 Ed., § 16-1902.

## § 16-1903. SUSPECTED EVASION OR DISOBEDIENCE OF WRIT; PROCEDURE.

On an application for a writ of habeas corpus, if probable cause is shown for believing that the person charged with confining or detaining the person applying therefor, or on whose behalf the application is made:

- (1) is about to remove the person so detained from the place where he is then detained, for the purpose of evading a writ of habeas corpus, or for other purposes; or
- (2) he would evade or not obey a writ of habeas corpus --

the court or judge shall insert in the writ a clause commanding the United States marshal to serve the writ

on the person to whom it is directed and cause him immediately to appear before the court or judge, together with the person so confined or detained. Thereupon, the marshal shall immediately carry those persons before the court or judge, and the court or judge shall proceed to inquire into the matter.

(Dec. 23, 1963, 77 Stat. 583, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1903.

1973 Ed., § 16-1903.

**§ 16-1904. FORFEITURE AND PENALTY FOR FAILURE TO PRODUCE.**

If an officer or other person to whom a writ of habeas corpus is directed neglects or refuses to:

- (1) make return of the writ; or
- (2) bring the body of the person detained --

according to the command of the writ, he shall forfeit to the person detained the sum of \$500, and be liable to attachment and punishment as for a contempt.

(Dec. 23, 1963, 77 Stat. 584, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1904.

1973 Ed., § 16-1904.

**§ 16-1905. RIGHT TO COPY OF COMMITMENT; FORFEITURE.**

A person committed or detained, or a person in his behalf, may demand a true copy of the warrant of commitment or detainer. An officer or other person detaining a person, who refuses or neglects to deliver to him or to a person in his behalf a true copy of the warrant of commitment or detainer, if one exists, within six hours after the demand, shall forfeit to the party so detained the sum of \$500.

(Dec. 23, 1963, 77 Stat. 584, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1905.

1973 Ed., § 16-1905.

**§ 16-1906. INQUIRY INTO CAUSE OF DETENTION; BAIL; BOND.**

On the return of a writ of habeas corpus issued pursuant to this chapter and the production of the person detained, the court or judge shall immediately inquire into the legality and propriety of the confinement or detention. If it appears that the person is detained without legal warrant or authority, the court or judge shall immediately release or discharge him. If the court or judge deems his detention to be lawful and proper, the court or judge shall remand him to the same custody, or, in a proper case, admit him to bail, if he is confined on a charge of having committed a bailable criminal offense. If he is bailed, the court or judge shall require a sufficient bond or recognizance to answer in the proper court, and transmit it to that court.

(Dec. 23, 1963, 77 Stat. 584, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1906.

1973 Ed., § 16-1906.

**§ 16-1907. TRAVERSING RETURN; PLEADING; WITNESSES.**

A person at whose instance or in whose behalf a writ of habeas corpus has been issued may traverse the

return thereto, or plead any matters showing that there is not a sufficient legal cause for his confinement or detention. The court or judge may issue process for witnesses or for the production of papers, which shall be served and enforced in like manner as similar process issued in a cause pending in the court, if the court or judge is satisfied as to the materiality of the testimony proposed to be adduced.

(Dec. 23, 1963, 77 Stat. 584, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1907.

1973 Ed., § 16-1907.

## **§ 16-1908. RIGHT OF OTHER PERSONS TO WRIT.**

A person entitled to the custody of another person, unlawfully confined or detained by a third person, as a parent, guardian, committee, spouse, or domestic partner, entitled to the custody of a minor child, ward, spouse, or domestic partner, upon application to the court or a judge as provided by this chapter, and showing just cause therefor, under oath, is entitled to a writ of habeas corpus, directed to the person confining or detaining, requiring him forthwith to appear and produce before the court or judge the person so detained, and the same proceedings shall be had in relation thereto as provided for by this chapter. The court or judge, upon hearing the proofs, shall determine which of the contesting parties is entitled to the custody of the person so detained, and commit the custody of the person to the party legally entitled thereto. For the purposes of this section, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(Dec. 23, 1963, 77 Stat. 584, Pub. L. 88-241, § 1; Mar. 24, 1998, D.C. Law 12-81, § 10(t), 45 DCR 745; Sept. 12, 2008, D.C. Law 17-231, § 20(f), 55 DCR 6758; Sept. 26, 2012, D.C. Law 19-169, § 20(b), 59 DCR 5567.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1908.

1973 Ed., § 16-1908.

*Effect of Amendments*

D.C. Law 17-231 substituted "spouse, or domestic partner" for "or husband" and "or wife"; and inserted "For the purposes of this section, the term 'domestic partner' shall have the same meaning as provided in § 32-701(3)."

D.C. Law 19-169 deleted "lunatic," following "ward,".

*Legislative History of Laws*

Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

For Law 17-231, see notes following § 16-904.

For history of Law 19-169, see notes under § 16-1054.

## **§ 16-1909. CONSTRUCTION OF CHAPTER.**

This chapter does not affect any provision of chapter 153 of Title 28, United States Code.

(Dec. 23, 1963, 77 Stat. 585, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-1909.

1973 Ed., § 16-1909.