

Title	Habeas Corpus Act 
Amended Date	2014.01.08
Category	Judicial Yuan (司法院)

Article 1 Where a person is arrested
or detained by an organ
other than by a decision of
the court, the said person, or
any other person, may
petition the district court that
has jurisdiction *ratione loci*
for the place of the arrest or
detention for habeas corpus.
The forgoing shall be without
prejudice to the application
of other provisions in the
statutory law in accordance
with which a person so
arrested or detained may
petition for a prompt court

review.

Litigation expenses for a
petition made in accordance
with the preceding
paragraph or for an
interlocutory appeal made in
accordance with Article 10
are waived.

Article 2 Where a person is arrested
or detained, the organ that
made the arrest or detention
shall, within twenty-four
hours at the latest, in writing
notify the said person, and
the relatives or friends
designated by such a
person, of the following: the
grounds for the arrest or

detention; the time and place
of the arrest or detention;
and that the persons so
notified may apply for
habeas corpus in
accordance with the
provisions of this Act.

Notwithstanding the
foregoing, the person under
arrest or detention, or his/her
relatives or friends, may
apply to be so notified as in
accordance with the
preceding paragraph.

Where the person under
arrest or detention, or his/her
relatives or friends, do not
understand Chinese, the
written notice made in

accordance with Paragraph
1 of this Article shall be
supplemented by passages
written in the language used
by those who are to be so
notified; where there are
reasons so as that such a
supplement cannot be made
in the written notice, the
organ that made the arrest or
detention shall find an
equivalent way to inform the
persons concerned in a
language comprehensible to
them.

Article 3 The petition for habeas
corpus shall be made in
writing or orally stating the

following:

1. The name, gender, date of birth, number of identity document, and domicile or habitual residence of the petitioner; where the petition is made by persons other than the person under arrest or detention, in addition to the above, the name, gender, or any other details for identification of the person under arrest or detention;
2. The grounds for the arrest or detention, and the time and place of the arrest or detention known to the petitioner;

3. The organ that made the arrest or detention, or the name of the person who made the arrest or detention;

4. The court to which the petition is filed;

5. The date of the petition.

Where a petition provided in the preceding paragraph is filed orally, such a petition shall be filed before a court clerk, who shall make a transcript thereof in the court records.

Where the format set out in Paragraph 1 of this Article is found lacking, the court shall investigate the lacking elements on its own

initiative.

Article 4 Upon receiving the petition
for habeas corpus, the
district court shall, in
accordance with the nature
of the subject-matters as
stated in the petition
pleadings, decide the
competent division that is to
exercise jurisdiction.
Detailed regulations
governing the competent
divisions to exercise the
jurisdiction over the petition
for habeas corpus shall be
prescribed by the Judicial
Yuan.

Article 5 The court to which a petition

for habeas corpus is filed
shall, within twenty-four
hours of the registration of
the said petition, serve a writ
of habeas corpus upon the
organ that made the arrest or
detention, as well as a notice
upon its immediate superior
organ. Notwithstanding the
forgoing, the said court may,
by a ruling, deny the petition
on ground of one of the
following:

1. That the arrest or
detention was made in
accordance with a court
decision;

2. That in accordance with
other provisions in the

statutory law a person under
arrest or detention may
petition for a prompt court
review;

3. That the person previously
under arrest or detention has
been released;

4. That the person previously
under arrest or detention has
died;

5. That the alleged
deprivation of physical
freedom was imposed in
accordance with a court
decision;

6. That there has been
proved to be no such arrest
or detention as alleged.

The court to which a petition

for habeas corpus is filed
may not by a ruling deny the
petition on ground that it
lacks jurisdiction over the
petition.

Article 6 A writ of habeas corpus shall
indicate the following:

1. The organ that made the
arrest or detention, as well
as the place where it is
located;
2. The name, gender, or any
other details for identification
of the person under arrest or
detention;
3. The court issuing the writ
of habeas corpus;
4. The court to which the

person under arrest or

detention shall be turned

over;

5. The date of the writ of

habeas corpus.

The authenticated copies of

the writ of habeas corpus

shall be served upon the

organ that made the arrest or

detention, with the duplicates

served upon the petitioner

and the person under arrest

or detention; where the court

issuing the writ of habeas

corpus is not identical to the

court to which the person

under arrest or detention

shall be turned over, the

authenticated copies of the

writ of habeas corpus shall
be annexed to the dossier of
the petition, which shall be
forwarded to the court to
which the person under
arrest or detention shall be
turned over.

When necessary, the writ of
habeas corpus and the
dossier of the petition for
habeas corpus may be
transmitted via teletext,
telefax or other electronic
means.

Article 7 The organ that made the
arrest or detention shall,
within twenty-four hours
upon the receipt of the writ of

habeas corpus, deliver the
person under arrest or
detention; where the person
in question has been
transferred to another organ
prior to the receipt of the writ
of habeas corpus, the organ
that made the arrest or
detention shall immediately
reply the court issuing the
writ with such a
circumstance, as well as
transfer the writ to the organ
to which the person in
question has been
transferred to, so as that
transferred organ shall
deliver the person in
question within the

twenty-four hours time-limit;
where the court takes its own
initiative in securing the
holding of the person in
question, the organ
concerned shall immediately
deliver the person under
arrest or detention .

Where there exist special
circumstances that render it
difficult for the delivery or
the court's securing of the
holding of the person in
question, and that there are
apparatus to facilitate direct
personal examination via
two-way transmission of
audio and video signals
which the court deems

appropriate, the court may proceed with the remote examination via those transmissions and suspend the performance of the duty by the detaining organ to deliver the detainee.

Where the person previously under arrest or detention has been released or has died prior to the receipt of the writ of habeas corpus, the organ that made the arrest or detention shall promptly reply the court issuing the writ of habeas corpus with such a circumstance.

The audio and video transmissions of the remote

examination done in
accordance with Paragraph
2 of this Article shall be
recorded for their entire
duration.

Article 8 The court shall base its
review of the legality of the
arrest or detention on the
following: the alleged legal
basis of the arrest or
detention; the alleged factual
circumstances that have
given rise to the arrest or
detention; and the
procedural regularity of the
arrest or detention.
In conducting the review in
accordance with the

preceding paragraph, the
court shall grant an
opportunity to be heard to
the petitioner, the person
under arrest or detention,
and the organ that made the
arrest or detention. When
necessary, the court may
notify other interested parties
to be present in the court
proceedings to be heard
therefrom.

With respect to the handling
of the petition for habeas
corpus, in addition to the
provisions of this Act, the
court shall apply, mutatis
mutandis, other related
procedural provisions in the

statutory law.

Article 9

Upon determining the arrest or detention to be devoid of a legal basis at the conclusion of the review, the court shall, by a ruling, immediately order the release of the person in question; upon determining that the arrest or detention has been made with an appropriate legal basis, the court shall, by a ruling, deny the petition and order the return of the person in question to the organ that turned over the said person.

A ruling ordering the release

of a person made in
accordance with the
preceding paragraph is not
reviewable.

Article 10 Where the petitioner or the
person otherwise covered by
the court ruling objects to the
ruling that denied the
petition, the said persons
may, within ten day following
the service of the said ruling
and stating in writing with
particularity the reasons for
objection, take an
interlocutory appeal from the
ruling to the immediate
superior court.

Upon determining the

interlocutory appeal to have
not been taken in conformity
with the law or to be
groundless, the said superior
court shall, by a ruling, deny
the interlocutory appeal;
upon determining the
interlocutory appeal to be
meritorious, the said superior
court shall, by a ruling,
revoke the original ruling and
order the release of the
person under arrest or
detention.

A ruling made in accordance
with the preceding
paragraph is not reviewable.

made the arrest or detention
who violated the provisions
of Paragraph 1 of Article 2
shall be sentenced to a fine
of not more than one
hundred thousand New
Taiwan dollars.

Personnel of the organ that
made the arrest or detention
who violated the provisions
of Paragraph 1 of Article 7
shall be sentenced to
imprisonment for not more
than three years, short-term
imprisonment, or, in lieu
thereof or in addition thereto,
a fine of not more than one
hundred thousand New
Taiwan dollars.

Article 12 This Act shall come into
effect six months after the
date of its promulgation.

Translated into English by

Raymond Chen-En Sung.

DPhil Candidate, St.

Catherine's College, Oxford

Reviewer: Li-Chin Lin., Esq.

Associate Professor, Soa

Chow University School of

Law J.D., Loyola University

School of Law (Chicago)
