

TITLE 30 – CIVIL REMEDIES AND SPECIAL PROCEEDINGS
CHAPTER 2 - SPECIAL PROCEEDINGS



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

SPECIAL COURT PROCEEDINGS ACT

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SPECIAL COURT PROCEEDINGS ACT

AN ACT to provide for special proceedings regarding declaratory judgments and habeas corpus in the courts of the Republic.

<i>Commencement:</i>		<i>Not Specified</i>
<i>Source:</i>		TTC 1966
<i>Amended By:</i>	9 TTC 1970	9 TTC 1980

PART I - GENERAL PROVISIONS

§201. Short Title.

This Chapter may be cited as the “Special Court Proceedings Act”.

PART II- DECLARATORY JUDGMENTS

§202. Authority of courts to render.

In a case of actual controversy within its jurisdiction, the High Court or a District Court, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment. [TTC 1966, §118; 9TTC 1970, §1; 9TTC 1980, §1, modified.]

PART III - HABEAS CORPUS

§203. Power to grant writ of habeas corpus.

Writs of habeas corpus may be granted by the High Court or any judge authorized to be assigned by the Chief Justice of the Supreme Court. Every person unlawfully imprisoned or restrained of his liberty under any pretense whatsoever, or any person on behalf of an unlawfully imprisoned individual, may apply for a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. [TTC 1966, §300; 9TTC 1970, §101; 9TTC 1980, §101.]

§204. Application for writ.

Application for the writ of habeas corpus shall be made to the High Court or a judge authorized to issue the same, or to a judge of a District Court or the Clerk of Courts, by a written statement under oath signed by the party for whose relief it is intended, or by some person in his behalf. It shall set forth the facts concerning the imprisonment or restraint of the person for whose relief it is intended, and, if known, the name of the person who has custody over him, and by virtue of what claim or authority the restraint or imprisonment is being practiced. [TTC 1966, §301; 9TTC 1970, §102; 9TTC 1980, §102, modified.]

§205. Action by Clerk of Courts upon application for writ.

If the application for a writ of habeas corpus is made to a Clerk of Courts, the Clerk shall immediately bring the application to the personal attention of a court or judge authorized to issue the writ, or a judge of the District Court. [TTC 1966, §302; 9TTC 1970, §103.]

§206. Show cause order.

The High Court or judge entertaining an application for a writ of habeas corpus shall issue an order directing the person against whom the writ is requested to show cause why the writ should not be granted, unless it appears from the application that the person detained is not entitled thereto. The order to show cause shall be directed to the person having custody of the person detained. The order shall set the time and place for hearing, which shall be as early as the Court or judge issuing the order deems practicable, preferably within three (3) days of receipt of the application. The person to whom the order is directed shall at or before the time set for hearing make a return certifying the true cause of the detention and unless

the application for the writ and the return present only issues of law, the person to whom the order is directed shall produce at the hearing the person detained, unless the person is so sick or so weak that this cannot with safety be done. The applicant, or the person detained may, under oath, deny any of the facts set forth in the return, or declare any other material facts. The application, the return, and any suggestions made against either of them may be amended by leave of the court or judge. If the person to whom the order is directed does not make a return as above required, or does not appear at the time and place set for hearing, the court or judge may proceed without him. [TTC 1966, §303; 9TTC 1970, §104; 9TTC 1980, §104.]

§207. Preliminary examination and recommendation by District Court judge.

If the application for a writ of habeas corpus is heard by a judge of a District Court, he shall, without delay or formality, make preliminary finding of fact and recommendations as to the issuance or denial of the writ, and the disposition of the person detained, and submit these by dispatch or other speedy method to the Chief Justice or to the most accessible court or judge authorized to issue the writ. [TTC 1966, §304; 9TTC 1970, §105; 9TTC 1980, §105.]

§208. Issuance or denial of writ.

The High Court or judge hearing the application for a writ of habeas corpus and authorized to issue the writ, shall, without delay or formality, determine the facts, grant the writ unconditionally, deny the writ, or grant the writ on terms fixed by the court and discharge the person for whose relief the application has been brought or make any order as to his disposition that law and justice may require. The court or judge authorized to issue the writ and receiving the report and recommendations of a judge of a District Court as provided in Section 107 of this Part, may act upon the matter, by dispatch or other speedy method, on the basis of the District Court judge's report, or may order such further hearing or the submission of such further evidence as he deems law and justice require, and the Clerk of Courts shall take such action in the matter as the judge or court may direct. [TTC 1966, §305; 9TTC 1970, §106; 9TTC 1980, §106. modified.]

§209. Evidence.

On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or in the discretion of the court or judge, by written statement

under oath. If written statements under oath are admitted, any party shall have the right to propound written interrogatories to the person who made such statements or to file answering written statements under oath. On application for a writ of habeas corpus, documentary evidence, transcripts of proceedings upon arraignments, plea, sentence, and a transcript of the oral testimony introduced on any previous similar application by or on behalf of the same person shall be admissible in evidence. The declarations of a return to an order to show cause in a habeas corpus proceeding, if not formally denied, shall be accepted as true, except to the extent that the court or judge finds from the evidence that they are not true. [TTC 1966, §306; 9TTC 1970, §107; 9TTC 1980, §107.]

§210. Appeals.

In a habeas corpus proceeding in which the final order is made by the High Court or a judge thereof, the final order shall be subject to appeal to the Supreme Court, provided notice of appeal is filed within thirty (30) days after entry of the final order. The court or judge issuing the final orders may in its or his discretion stay execution of the order, admit the person imprisoned or restrained to bail pending action by the Supreme Court, or direct that the final order take effect pending such action or without waiting for the time for filing such notice of appeal to expire. [TTC 1966, §307; 9TTC 1970, §108; 9TTC 1980, §108.]