

PERSONAL RESTRAINT PETITION—SUPERIOR COURT HEARING

If the appellate court transfers the petition to a superior court, the transfer will be to the superior court for the county in which the decision was made resulting in the restraint of petitioner or, if petitioner is not being restrained on the basis of a decision, in the superior court in the county in which petitioner is located. If the respondent is represented by the Attorney General, the prosecuting attorney, or a municipal attorney, respondent must take steps to obtain a prompt evidentiary hearing and must serve notice of the date set for hearing on all other parties. The parties, on motion, will be granted reasonable pretrial discovery. Each party has the right to subpoena witnesses. The hearing shall be held before a judge who was not involved in the challenged proceeding. The petitioner has the right to be present at the hearing, the right to cross-examine adverse witnesses, and the right to counsel to the extent authorized by statute. The Rules of Evidence apply at the hearing. Upon the conclusion of the hearing, if the case has been transferred for a reference hearing, the superior court shall enter findings of fact and have the findings and all appellate court files forwarded to the appellate court. Upon the conclusion of the hearing if the case has been transferred for a determination on the merits, the superior court shall enter findings of fact and conclusions of law and an order deciding the petition.

[Adopted effective July 1, 1976; Amended effective January 1, 1977; September 1, 2014.]