

1 (a) **First appearance.** At the defendant's first appearance, the court must inform the
2 defendant:

3 ~~(a)~~(1) of the charge in the information or indictment and furnish a copy;

4 ~~(a)~~(2) of any affidavit or recorded testimony given in support of the information
5 and how to obtain them;

6 ~~(a)~~(3) of the right to retain counsel or have counsel appointed by the court without
7 expense if unable to obtain counsel;

8 ~~(a)~~(4) of rights concerning pretrial release; and

9 ~~(a)~~(5) that the defendant is not required to make any statement, and that any
10 statement the defendant makes may be used against the defendant in a court of
11 law.

12 (b) **Right to counsel.** If the defendant is present at the initial appearance without counsel,
13 the court must determine if the defendant is capable of retaining the services of an
14 attorney within a reasonable time. If the court determines the defendant has such
15 resources, the court must allow the defendant a reasonable time and opportunity to retain
16 and consult with counsel. If the court determines the defendant is indigent, the court
17 must appoint counsel pursuant to Rule 8, unless the defendant knowingly and
18 intelligently waives the right to counsel.

19 (c) **Release conditions.**

20 ~~(e)~~(1) Except as provided in paragraph (c), the court must issue a pretrial status
21 order pursuant to Utah Code section 77-20-~~4205~~. Parties should be prepared to
22 address this issue, including notice requirements under Utah Code section 77-37-
23 3 and Utah Code section 77-38-3.

24 ~~(e)~~(2) A motion to modify the pretrial status order issued at initial appearance may
25 be made by either party at any time upon notice to the opposing party sufficient

26 to permit the opposing party to prepare for the hearing and to permit each alleged
27 victim to be notified and be present.

28 ~~(e)~~(3) Subsequent motions to modify a pretrial status order may be made only
29 upon a showing that there has been a material change in circumstances.

30 ~~(e)~~(4) A hearing on a motion to modify a pretrial status order may be held in
31 conjunction with a preliminary hearing or any other pretrial hearing.

32 (d) **Continuances.** Upon application of either party and a showing of good cause, the
33 court may allow up to a seven day continuance of the hearing to allow for preparation,
34 including notification to any victims. The court may allow more than seven days with the
35 consent of the defendant.

36 (e) **Right to preliminary examination.**

37 ~~(e)~~(1) The court must inform the defendant of the right to a preliminary
38 examination and the times for holding the hearing. If the defendant waives the
39 right to a preliminary examination, and the prosecuting attorney consents, the
40 court must order the defendant bound over for trial.

41 ~~(e)~~(2) If the defendant does not waive a preliminary examination, the court must
42 schedule the preliminary examination upon request. The examination must be
43 held within a reasonable time, but not later than 14 days if the defendant is in
44 custody for the offense charged and not later than 28 days if the defendant is not
45 in custody. These time periods may be extended by the magistrate for good cause
46 shown. Upon consent of the parties, the court may schedule the case for other
47 proceedings before scheduling a preliminary hearing.

48 ~~(e)~~(3) A preliminary examination may not be held if the defendant is indicted.

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