

Rule 22. Initial appearance and preliminary hearing in cases under Utah Code sections 80-6-503 and 80-6-504.

(a) When a summons is issued in lieu of a warrant of arrest, the minor must appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor must be taken to a juvenile detention facility pending a detention hearing, which must be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor must be taken to the place designated on the warrant. If an information has not been filed, one must be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor must without unnecessary delay be returned to the county where the crime was committed and must be taken before a judge of the juvenile court.

(d) The court will, upon the minor's first appearance, inform the minor:

(1) of the charge in the information or indictment and furnish the minor with a copy;

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

(3) of the right to retain counsel or have counsel appointed by the court;

(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court will, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel and will allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f) The minor may not be called on to enter a plea. During the initial appearance, the minor will be advised of the right to a preliminary hearing. If the minor waives the right to a preliminary hearing, the court will proceed in accordance with [Rule 23A](#) to hear evidence regarding the factors contained in Utah Code section 80-6-504(3).

(g) Preliminary Hearing; time for hearing. If the minor does not waive a preliminary hearing, the court will schedule the ~~preliminary~~ hearing. The preliminary hearing will be held within a reasonable time, but not later than ~~ten~~¹⁴ days after the initial appearance if the minor is in custody for the offense charged. If the minor is not in custody, Tthe preliminary hearing will be held within a reasonable time, but not¹ later than ~~30~~²⁸ days after the initial appearance ~~if the minor is not in custody~~. The time periods of this rule may be extended by the court for good cause shown.

(h) If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-6-503, the court will proceed in accordance with Utah Code section 80-6-504(11).

(i) A preliminary hearing will be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and will proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(j) If from the evidence the court finds probable cause under Utah Code section 80-6-504(2)(a), the court will proceed in accordance with [Rule 23A](#) to hear evidence regarding the factors contained in Utah Code section 80-6-504(3).

(k) The finding of probable cause may be based, in whole or in part, on reliable hearsay. Objections to evidence on the ground that it was acquired by unlawful means may not be raised at the preliminary hearing.

(l) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court will dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an

53 order of dismissal. The dismissal and discharge do not preclude the state from instituting
54 a subsequent prosecution for the same offense.

55 (m) At a preliminary hearing, upon request of either party, and subject to Title 77, Chapter
56 38, Rights of Crime Victims Act, the court may:

57 (1) exclude witnesses from the courtroom;

58 (2) require witnesses not to converse with each other until the preliminary hearing is
59 concluded; and

60 (3) exclude spectators from the courtroom.

61 *Effective Date:*