

1 **Rule 23A. Hearing ~~on factors of~~ under Utah Code section 80-6-504~~3~~; bind-over to district**
2 **court.**

3 (a) If the court finds probable cause in accordance with Rule 22 on a criminal
4 indictment information filed under Utah Code section 80-6-503, or if a minor is indicted
5 pursuant to Utah Code section 80-6-504(11) ~~alleges the commission of a felony~~, the court
6 ~~shall will~~, hear evidence and make findings as set forth in Utah Code section 80-6-
7 504 ~~consider the factors in paragraph (b).~~

8 (b) If the juvenile court finds that the State has met its burden of proof, the juvenile court
9 will bind the minor over to the district court to be held for trial and enter interim orders
10 regarding bail and continued detention status. The juvenile court clerk will transmit the
11 filings and record of the preliminary hearing to the district court clerk. ~~a criminal~~
12 ~~information under Utah Code section 80-6-503 alleges the commission of a felony, after a~~
13 ~~finding of probable cause in accordance with, the court shall hear evidence and consider~~
14 ~~the factors and make findings on:~~

15 ~~(1) the seriousness of the qualifying offense and whether the protection of the community~~
16 ~~requires that the minor be detained beyond the amount of time allowed under Utah Code~~
17 ~~section 80-6-601, or beyond the age of continuing jurisdiction that the court may exercise~~
18 ~~under Utah Code section 80-6-605;~~

19 ~~(2) the extent to which the minor's actions in the qualifying offense were committed in an~~
20 ~~aggressive, violent, premeditated, or willful manner;~~

21 ~~(3) the minor's mental, physical, educational, trauma, and social history;~~

22 ~~(4) the criminal record or history of the minor; and~~

23 ~~(5) the likelihood of the minor's rehabilitation by the use of services and facilities that are~~
24 ~~available to the court.~~

25 ~~(c) The court may consider any written report or other materials that relate to the minor's~~
26 ~~mental, physical, educational, trauma, and social history. Upon request by the minor, the~~
27 ~~minor's parent, guardian, or other interested party, the court shall require the person~~

~~preparing the report, or other material, to appear and be subject to direct and cross-examination.~~

~~(d) At the preliminary examination the minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence.~~

~~(e) If the court does not find by a preponderance of evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the minor over to the jurisdiction of the district court, the court shall enter an order directing the minor to answer the charges in district court.~~

~~(f) Upon entry of an order directing the minor to answer the charges in district court, the court shall comply with the requirements of Title 77, Chapter 20, Bail. By issuance of a warrant of arrest or continuance of an existing warrant, the court shall make an initial determination on where the minor is held until the time of trial. The court shall enter the appropriate written order.~~

~~(1) Once the minor is bound over to district court, a determination regarding where the minor is held shall be made pursuant to Utah Code section 80-6-504.~~

~~(2) The clerk of the juvenile court shall transmit to the clerk of the district court all pleadings in and records made of the proceedings in the juvenile court.~~

~~(3) The jurisdiction of the court shall terminate as provided by statute.~~

~~(c)~~ If the court finds probable cause to believe that a felony has been committed and that the minor committed it ~~and also~~ but finds that the State has not met its burden of proof for binding the minor over to the district court, ~~it would be in the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense,~~ the juvenile court ~~shall~~ will retain jurisdiction over the minor's case and arraign the minor on the allegations ~~proceed upon the information~~ as if it were a petition. The court may order the minor held in a detention center or released in accordance with Rule 9.

Effective Date: