

1 **Rule 9. Detention hearings; scheduling; hearing procedure.**

2 (a) The officer in charge of the detention facility shall provide to the court a copy of the
3 report required by Section 78A-6-112. ~~At a detention hearing, the court shall order the release of~~
4 ~~the minor to the parent, guardian or custodian unless there is reason to believe:~~

5 ~~(a)(1) the minor will abscond or be taken from the jurisdiction of the court unless detained;~~

6 ~~(a)(2) the offense alleged to have been committed would be a felony if committed by an~~
7 ~~adult;~~

8 ~~(a)(3) the minor's parent, guardian or custodian cannot be located;~~

9 ~~(a)(4) the minor's parent, guardian or custodian refuses to accept custody of the minor;~~

10 ~~(a)(5) the minor's parent, guardian or custodian will not produce the minor before the court at~~
11 ~~an appointed time;~~

12 ~~(a)(6) the minor will undertake witness intimidation;~~

13 ~~(a)(7) the minor's past record indicates the minor may be a threat to the public safety;~~

14 ~~(a)(8) the minor has problems of conduct or behavior so serious or the family relationships~~
15 ~~are so strained that the minor is likely to be involved in further delinquency; or~~

16 ~~(a)(9) the minor has failed to appear for a court hearing within the past twelve months.~~

17 **(b) If a minor is admitted into a detention facility without a warrant, the court shall make a**
18 **determination whether there is a reasonable basis for admission probable cause for the minor's**
19 **arrest, within 24 hours of the minor's admission to detention including weekends and holidays.**

20 ~~(c)(b)~~ **The court shall hold a detention hearing within 48 hours of the minor's admission to**
21 **detention, weekends and holidays excluded. A minor may not be held in a detention facility**
22 **longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the**
23 **court has entered an order for continued detention.** The officer in charge of the detention facility

24 shall notify the minor, parent, guardian or custodian and attorney of the date, time, place and
25 manner of such hearing.

26 ~~(d)(e)~~ The court may at any time order the release of a minor whether a detention hearing is
27 held or not.

28 (e) A probable cause determination and detention hearing may occur concurrently so long as
29 the probable cause determination and the detention hearing occur pursuant to the time frames in
30 paragraphs (b) and (c).

31 ~~(f)(e)~~ The court may order a minor to be held in the detention facility or placed in another
32 appropriate facility, subject to further order of the court, only if the court finds at the detention
33 hearing that:

34 ~~(e)(f)(1)~~ releasing the minor to the minor's parents, guardian, or custodian presents an
35 unreasonable risk to public safety;

36 ~~(e)(f)(2)~~ less restrictive nonresidential alternatives to detention have been considered and,
37 where appropriate, attempted; and

38 ~~(e)(f)(3)~~ the minor is eligible for detention under the division guidelines for detention
39 admission established by the Division of Juvenile Justice Services, under Section 62A-7-202 and
40 under Section 78A-6-112.

41 ~~(d)(g)~~ At the beginning of the detention hearing, the court shall advise all persons present as
42 to the reasons or allegations giving rise to the minor's admission to detention and the limited
43 scope and purpose of the hearing ~~as set forth in paragraph (g)~~. If the minor is to be arraigned at
44 the detention hearing, the provisions of Rules 24 and 26 shall apply.

45 ~~(e)(h)~~ The court may receive any information, including hearsay and opinion, that is relevant
46 to the decision whether to detain or release the minor. Privileged communications may be
47 introduced only in accordance with the Utah Rules of Evidence.

48 ~~(f)(i)~~ A detention hearing may be held without the presence of the minor's parent, guardian or
49 custodian if they fail to appear after receiving notice. The court may delay the hearing for up to

50 48 hours to permit the parent, guardian or custodian to be present or may proceed subject to the
51 rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or
52 without the minor's request.

53 ~~(g)~~(j) If the court determines that no ~~reasonable basis~~ probable cause exists for the arrest and
54 or the offense or condition alleged as required does not meet the requirements in Rule 6 as a
55 basis for admission, it shall order the minor released immediately without restrictions.

56 (k) If the court determines that ~~reasonable cause exists for continued detention~~, a less
57 restrictive alternative to detention is appropriate it may ~~order continued detention~~, place the
58 minor on home detention, another alternative program, or order the minor's release upon
59 compliance with certain conditions pending further proceedings. Such conditions may include:

60 ~~(g)~~(k)(1) a requirement that the minor remain in the physical care and custody of a parent,
61 guardian, custodian or other suitable person;

62 ~~(g)~~(k)(2) a restriction on the minor's travel, associations or residence during the period of the
63 minor's release; and

64 ~~(g)~~(k)(3) other requirements deemed reasonably necessary and consistent with the criteria for
65 detaining the minor.

66 ~~(l)~~(h) If the court determines that a ~~reasonable basis~~ probable cause exists as to the offense or
67 condition alleged as a basis for the minor's admission to detention but that the minor can be
68 safely left in the care and custody of the parent, guardian or custodian present at the hearing, it
69 may order release of the minor upon the promise of the minor and the parent, guardian or
70 custodian to return to court for further proceedings when notified.

71 ~~(m)~~(i) If the court determines that the offense is one governed by Section 78A-6-701, Section
72 78A-6-702, or Section 78A-6-703, the court may by issuance of a warrant of arrest order the
73 minor committed to the county jail in accordance with Section 62A-7-201.

74 ~~(n)~~(j) Any predisposition order to detention shall be reviewed by the court once every seven
75 days, unless the minor is ordered to home detention or an alternative detention program.
76 Predisposition orders to home detention or an alternative detention program shall be reviewed by

77 the court once every 15 days. The court may, on its own motion or on the motion of any party,
78 schedule a detention review hearing at any time.

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