

1 **Rule 23A. Hearing on factors of Utah Code section ~~80-6-503~~78A-6-703.3; bind over to**
2 **district court.**

3 (a) If a criminal indictment under Utah Code section ~~78A-6-703.3~~380-6-503 alleges the
4 commission of a felony, the court shall, hear evidence and consider the factors in
5 paragraph (b).

6 (b) If a criminal information under Utah Code section ~~78A-6-703.3~~380-6-503 alleges the
7 commission of a felony, after a finding of probable cause in accordance with Rule 22,
8 the court shall hear evidence and consider the factors and make findings on:

9 ~~(b)~~(1) the seriousness of the qualifying offense and whether the protection of the
10 community requires that the minor be detained beyond the amount of time
11 allowed under Utah Code section ~~78A-6-117~~80-6-601, or beyond the age of
12 continuing jurisdiction that the court may exercise under Utah Code section ~~78A-~~
13 ~~6-703.4~~80-6-605;

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

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

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

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

20 (c) The court may consider any written report or other materials that relate to the
21 minor's mental, physical, educational, trauma, and social history. Upon request by the
22 minor, the minor's parent, guardian, or other interested party, the court shall require
23 the person preparing the report, or other material, to appear and be subject to direct and
24 cross-examination.

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

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

31 (f)(1) Upon entry of an order directing the minor to answer the charges in district court,
32 the court shall comply with the requirements of Title 77, Chapter 20, Bail. By issuance of
33 a warrant of arrest or continuance of an existing warrant, the court shall make an initial
34 determination on where the minor is held until the time of trial. The court shall enter
35 the appropriate written order.

36 ~~(f)(2)~~ Once the minor is bound over to district court, a determination regarding
37 where the minor is held shall be made pursuant to Utah Code section ~~78A-6-~~
38 ~~703.580-6-504~~.

39 ~~(f)(3)~~ The clerk of the juvenile court shall transmit to the clerk of the district
40 court all pleadings in and records made of the proceedings in the juvenile court.

41 ~~(f)(4)~~ The jurisdiction of the court shall terminate as provided by statute.

42 (g) If the court finds probable cause to believe that a felony has been committed and
43 that the minor committed it and also finds that it would be in the best interests of the
44 minor and the public for the juvenile court to retain jurisdiction over the offense, the
45 court shall proceed upon the information as if it were a petition. The court may order
46 the minor held in a detention center or released in accordance with Rule 9.

47 *Effective September 1, 2021*