

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~~ Utah Code section 78A-6-11280-6-201.

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

7 (c) The court shall hold a detention hearing within 48 hours of the minor's admission to
8 detention. A minor may not be held in a detention facility longer than 48 hours before a
9 detention hearing, excluding weekends and holidays, unless the court has entered an
10 order for continued detention. The officer in charge of the detention facility shall notify
11 the minor, parent, guardian or custodian and attorney of the date, time, place and
12 manner of such hearing.

13 (d) The court may at any time order the release of a minor whether a detention hearing
14 is held or not.

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

18 (f) The court may order a minor to be held in the detention facility or placed in another
19 appropriate facility, subject to further order of the court, only if the court finds at the
20 detention hearing that:

21 ~~(1)~~ (1) releasing the minor to the minor's parents, guardian, or custodian presents
22 an unreasonable risk to public safety;

23 ~~(2)~~ (2) less restrictive nonresidential alternatives to detention have been
24 considered and, where appropriate, attempted; and

25 ~~(3)~~ (3) the minor is eligible for detention under the division guidelines for
26 detention admission established by the Division of Juvenile Justice Services,

27 under Utah Code Sections 62A-7-20280-5-501 and ~~under Section 78A-6-11280-6-~~
28 201.

29 (g) At the beginning of the detention hearing, the court shall advise all persons present
30 as to the reasons or allegations giving rise to the minor's admission to detention and the
31 limited scope and purpose of the hearing. If the minor is to be arraigned at the
32 detention hearing, the provisions of Rules 24 and 26 shall apply.

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

37 (i) A detention hearing may be held without the presence of the minor's parent,
38 guardian or custodian if they fail to appear after receiving notice. The court may delay
39 the hearing for up to 48 hours to permit the parent, guardian or custodian to be present
40 or may proceed subject to the rights of the parent, guardian or custodian. The court may
41 appoint counsel for the minor with or without the minor's request.

42 (j) If the court determines that no probable cause exists for the arrest or the offense or
43 condition alleged does not meet the requirements in Rule 6 as a basis for admission, it
44 shall order the minor released immediately without restrictions.

45 (k) If the court determines that a less restrictive alternative to detention is appropriate it
46 may place the minor on home detention, another alternative program, or order the
47 minor's release upon compliance with certain conditions pending further proceedings.
48 Such conditions may include:

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

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

53 ~~(A)~~(3) other requirements deemed reasonably necessary and consistent with the
54 criteria for detaining the minor.

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

60 (m) If the court determines that the offense is one governed by Utah Code ~~§~~sections
61 ~~78A-6-703.280-6-502, §78A-6-703.380-6-503, §78A-6-703.580-6-504, or §78A-6-703.680-6-~~
62 505, the court may by issuance of a warrant of arrest order the minor committed to the
63 county jail in accordance with Utah Code ~~§~~section 62A-7-20180-6-204.

64 (n) Any predisposition order to detention shall be reviewed by the court once every
65 seven days, unless the minor is ordered to home detention or an alternative detention
66 program. Predisposition orders to home detention or an alternative detention program
67 shall be reviewed by the court once every 15 days. The court may, on its own motion or
68 on the motion of any party, schedule a detention review hearing at any time.

69 *Effective September 1, 2021*