

1 **Rule 22. Initial appearance and preliminary examination in cases under Utah Code**
2 **section ~~78A-6-703.380-6-503~~**

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

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

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

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

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

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

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

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

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

24 (e) The court shall, after providing the information under paragraph (d) and before
25 proceeding further, allow the minor reasonable time and opportunity to consult counsel

26 and shall allow the minor to contact any attorney by any reasonable means, without delay
27 and without fee.

28 (f)(1) The minor may not be called on to enter a plea. During the initial appearance, the
29 minor shall be advised of the right to a preliminary examination. If the minor waives the
30 right to a preliminary examination the court shall proceed in accordance with Rule 23A
31 to hear evidence regarding the factors contained in Utah Code section ~~78A-6-703.580-6-~~
32 504.

33 (f)(2g) If the minor does not waive a preliminary examination, the court shall schedule
34 the preliminary examination. The time periods of this rule may be extended by the court
35 for good cause shown. The preliminary examination shall be held within a reasonable
36 time, but not later than ten days after the initial appearance if the minor is in custody for
37 the offense charged and the information is filed under Utah Code section ~~78A-6-703.380-~~
38 6-503. The preliminary examination shall be held within a reasonable time, but not later
39 than 30 days after the initial appearance if:

40 (f)(2)(A1) the minor is in custody for the offense charged and the information is
41 filed under Utah Code section ~~78A-6-703.380-6-503~~; or

42 (f)(2)(B2) the minor is not in custody.

43 (f)(3h) A preliminary examination may not be held if the minor is indicted. If the
44 indictment is filed under Utah Code section ~~78A-6-703.380-6-503~~, the court shall proceed
45 in accordance with Rule 23A to hear evidence regarding the factors contained in Utah
46 Code section ~~78A-6-703.580-6-503~~.

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

51 (h) If from the evidence the court finds probable cause to believe that the crime charged
52 has been committed, that the minor has committed it, and the information is filed under

53 Utah Code section ~~78A-6-703.380~~6-503, the court shall proceed in accordance with Rule
54 23A to hear evidence regarding the factors contained in Utah Code section ~~78A-6-703.580-~~
55 6-504.

56 (~~k~~) The finding of probable cause may be based on hearsay in whole or in part. Objections
57 to evidence on the ground that it was acquired by unlawful means are not properly raised
58 at the preliminary examination.

59 (~~j~~) If the court does not find probable cause to believe that the crime charged has been
60 committed or that the minor committed it, the court shall dismiss the information and
61 discharge the minor. The court may enter findings of fact, conclusions of law, and an
62 order of dismissal. The dismissal and discharge do not preclude the state from instituting
63 a subsequent prosecution for the same offense.

64 (~~m~~) At a preliminary examination, upon request of either party, and subject to Title 77,
65 Chapter 38, Victim Rights, the court may:

66 ~~(k)~~(1) exclude witnesses from the courtroom;

67 ~~(k)~~(2) require witnesses not to converse with each other until the preliminary
68 examination is concluded; and

69 ~~(k)~~(3) exclude spectators from the courtroom.

70 *Effective September 1, 2021*