

1 **Rule 6-301. Authority of Court Commissioner as Magistrate**

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3 **Intent:**

4 To identify, as required by Utah Code Section 78A-5-107, the types of cases and matters
5 commissioners are authorized to hear, to identify the types of relief and orders commissioners
6 may recommend, and to establish procedures for timely judicial review of recommendations and
7 orders made by court commissioners. To provide for the authority of a court commissioner to act
8 as a magistrate as required by § 77-1-3.

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10 **Applicability:**

11 This rule shall apply to court commissioners acting as magistrate judges in criminal cases in the
12 district courts.

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14 **Statement of the Rule:**

15 ~~A court commissioner may exercise the following authority conferred upon magistrates by the~~
16 ~~Legislature:~~

17 ~~(1) issue warrants and summonses in traffic cases; and~~

18
19 ~~(2) set fines in traffic cases.~~

20 (1) **Types of cases and matters.** All felony and misdemeanor cases filed in the district court in
21 counties where court commissioners are appointed and serving in accordance with Rule 3-201.

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23 (2) **Duties of court commissioner.** Under the general supervision of the presiding judge, a
24 commissioner has the following duties:

25 (2)(A) To handle procedural aspects of criminal cases up to and including bind over; and

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27 (2)(B) To conduct initial appearances, preliminary hearings, and other hearings consistent
28 with applicable statutes and rules.

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30 (3) **Authority of court commissioner.** Subject to the limitations outlined in this rule, court
31 commissioners shall have the following authority:

32 (3)(A) All duties and responsibilities conferred upon magistrates by statute, the Rules of
33 Criminal Procedure, and this rule;

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35 (3)(B) Upon notice, to require the personal appearance of parties and their counsel at
36 hearings before the commissioner or district court;

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38 (3)(C) To conduct initial appearances in accordance with Rule 7 of the Utah Rules of
39 Criminal Procedure;

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41 (3)(D) To require defendants to disclose information necessary to ensure notice, compliance
42 with pretrial release conditions, and appearance at court hearings;

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44 (3)(E) To require defendants to make financial disclosures and complete forms necessary to
45 determine indigency and appoint counsel;

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47 (3)(F) To reassign cases in accordance with written policies of the district court;

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49 (3)(G) To modify the terms of a temporary pretrial status order, subject to de novo review by
50 the district court;

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52 (3)(H) To enter pretrial protective orders, no contact orders, temporary civil protective
53 orders, and stalking injunctions, subject to de novo review by the district court;

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55 (3)(I) To recommend the issuance of arrest warrants based on probable cause or failure to
56 appear;

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58 (3)(J) To recommend the issuance of material witness warrants in accordance with Rule 7C
59 of the Utah Rules of Criminal Procedure;

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61 (3)(K) To conduct preliminary hearings in accordance with Rule 7B of the Utah Rules of
62 Criminal Procedure;

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64 (3)(L) To impose sanctions for contempt of court, subject to de novo review by the district
65 court;

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67 (3)(M) To issue temporary or ex parte orders, subject to de novo review by the district court;

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69 (3)(N) To issue warrants and summonses in traffic cases;

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71 (3)(O) To set fines in traffic cases; and

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73 (3)(P) To make recommendations to the district court regarding any issue, including a
74 recommendation for entry of final judgment.

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76 (4) Dismissals. If a court commissioner dismisses a case at a preliminary hearing or other
77 proceeding prior to bindover, the dismissal shall be without prejudice. ~~and subject to de novo~~
78 ~~review by the district court.~~

79 (5) Prohibitions.

80 (5)(A) Commissioners shall not make final adjudications or enter final, appealable orders.

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82 (5)(B) Commissioners shall not serve as pro tempore judges in any matter, except as
83 provided by Rule of the Supreme Court.

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85 (5)(C) Commissioners shall not conduct trials, accept guilty pleas, or impose sentences,
86 even with consent of all parties.

87
88 ~~(5)(D) Commissioners shall not enter final pretrial status orders in accordance with Utah~~
89 ~~Code Section 77-20-205.~~

90
91 (6) Judicial review.

92 (6)(A) All orders made by a commissioner are subject to review by the district court pursuant
93 to this rule, applicable rules of criminal procedure, or local rules. Review by the district court
94 is de novo, neither party is required to show a change in circumstances, and no deference

95 may be given to the commissioner's decision. Countersigning a recommendation by a
96 commissioner does not constitute de novo review.
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98 (6)(B) A recommendation or order of a court commissioner is the order of the court until
99 modified by the court. A party may make an oral objection or file a written objection to the
100 recommendation within 14 days after the recommendation is made in open court or, if the
101 court commissioner takes the matter under advisement, within 14 days after the minute
102 entry of the recommendation is served. A judge's counter-signature on the commissioner's
103 recommendation does not affect the review of an objection.
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105 (6)(C) The objection must be made in accordance with Rule 12 of the Utah Rules of Criminal
106 Procedure and must identify succinctly and with particularity the findings of fact, the
107 conclusions of law, or the part of the recommendation or order to which the objection is
108 made and state the relief sought.
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111 *Effective: May/~~November~~ 12, 202_0*