

1 **Rule 22. Sentence, judgment and commitment.**

2 (a) **Time for sentencing**. Upon the entry of a plea or verdict of guilty or plea of no contest, the
3 court shall set a time for imposing sentence which may be not less than two nor more than 45
4 days after the verdict or plea, unless the court, with the concurrence of the defendant, otherwise
5 orders. Pending sentence, the court may commit the defendant or may continue or alter bail or
6 recognizance. Before imposing sentence the court shall afford the defendant an opportunity to
7 make a statement and to present any information in mitigation of punishment, or to show any
8 legal cause why sentence should not be imposed. The prosecuting attorney shall also be given an
9 opportunity to present any information material to the imposition of sentence.

10 (b) **Defendant's absence**. On the same grounds that a defendant may be tried in defendant's
11 absence, defendant may likewise be sentenced in defendant's absence. If a defendant fails to
12 appear for sentence, a warrant for defendant's arrest may be issued by the court.

13 (c)(1) **Sentencing advisories**. Upon a verdict or plea of guilty or plea of no contest, the court
14 shall impose sentence and shall enter a judgment of conviction which shall include the plea or
15 the verdict, if any, and the sentence. Following imposition of sentence, the court shall advise the
16 defendant of defendant's right to appeal, ~~and~~ the time within which any appeal shall be filed and
17 the right to retain counsel or have counsel appointed by the court if indigent.

18 (c)(2) If the defendant is convicted of a misdemeanor crime of domestic violence, as defined in
19 Utah Code § 77-36-1, the court shall advise the defendant orally or in writing that, if the case
20 meets the criteria of 18 U.S.C. § 921(a)(33) or Utah Code Section 76-10-503, then pursuant to
21 federal law or state law it is unlawful for the defendant to possess, receive or transport any
22 firearm or ammunition. The failure to advise does not render the plea invalid or form the basis
23 for withdrawal of the plea.

24 (d) **Commitment**. When a jail or prison sentence is imposed, the court shall issue its
25 commitment setting forth the sentence. The officer delivering the defendant to the jail or prison
26 shall deliver a true copy of the commitment to the jail or prison and shall make the officer's
27 return on the commitment and file it with the court.

28 (e) **Correcting the sentence**. The court may correct a sentence when the sentence imposed:

29 (e)(1)(A) exceeds the statutorily authorized maximums;

30 (e)(2)(1)(B) is less than statutorily required minimums;

31 (e)(3)(1)(C) violates Double Jeopardy;
32 (e)(4)(1)(D) is ambiguous as to the time and manner in which it is to be served;
33 (e)(5)(1)(E) is internally contradictory; or
34 (e)(6) omits a condition required by statute or includes a condition prohibited by statute.
35 (f)(e)(2) **Time for filing**. A motion under (e)(3)(1)(C), (e)(4)(1)(D), or (e)(5)(1)(E) shall be
36 filed no later than one year from the date the facts supporting the claim could have been
37 discovered through the exercise of due diligence. A motion under the other provisions may be
38 filed at any time.
39 (g)(f) **Sentencing and mentally ill offenders**. Upon a verdict or plea of guilty and mentally ill,
40 the court shall impose sentence in accordance with Title 77, Chapter 16a, Utah Code. If the court
41 retains jurisdiction over a mentally ill offender committed to the Department of Human Services
42 as provided by Utah Code § 77-16a-202(1)(b), the court shall so specify in the sentencing order.
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44 Effective May 1, 2017