

1 **Rule 22. Initial appearance and preliminary ~~examination hearing~~ in cases under Utah**
2 **Code sections 80-6-503 and 80-6-504.**

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

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

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

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

22 (5) that the minor is not required to make any statement, and that any statements
23 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) 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~~hearing. If the minor
30 waives the right to a preliminary ~~examination~~hearing the court shall proceed in
31 accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code
32 section 80-6-504.

33 (g) If the minor does not waive a preliminary ~~examination~~hearing, the court shall
34 schedule the preliminary ~~examination~~hearing. ~~The time periods of this rule may be~~
35 ~~extended by the court for good cause shown.~~ The preliminary ~~examination~~hearing shall
36 be held within a reasonable time, but not later than ~~10 ten~~ days after the initial appearance
37 if the minor is in custody for the offense charged. ~~and the information is filed under Utah~~
38 ~~Code section 80-6-503.~~ The preliminary ~~examination~~hearing shall be held within a
39 reasonable time, but not later than 30 days after the initial appearance if:

40 ~~(1) the minor is in custody for the offense charged and the information is filed~~
41 ~~under Utah Code section 80-6-503; or~~

42 ~~(2)~~ the minor is not in custody. ~~The time periods of this rule may be extended by~~
43 ~~the court for good cause shown.~~

44 (h) A preliminary ~~examination~~hearing may not be held if the minor is indicted. If the
45 indictment is filed under Utah Code section 80-6-503, the court shall proceed in
46 accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code
47 section 80-6-503~~4~~.

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

52 (j) If from the evidence the court finds probable cause under Utah Code section 80-6-504
53 ~~to believe that the crime charged has been committed, that the minor has committed it,~~
54 ~~and the information is filed under Utah Code section 80-6-503,~~ the court shall proceed in
55 accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code
56 section 80-6-504.

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

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

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

67 (1) exclude witnesses from the courtroom;

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

70 (3) exclude spectators from the courtroom.

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