

1       **Rule 23. Hearing to waive jurisdiction and certify under Section 78A-6-703;**  
2       **bind over to district court.**

3       (a)(1) Upon the filing of a criminal indictment or information and motion to waive  
4 jurisdiction under Section 78A-6-703, the court shall order that a full investigation of the  
5 minor's social history and background be made by the court's probation department.

6       (a)(2) The investigation may include, but shall not be limited to: the minor's  
7 delinquency history, the minor's response to rehabilitative and correctional efforts; the  
8 minor's educational history, social history and status; a psychological evaluation and  
9 assessment, and any other matter ordered by the court.

10       (a)(3) A report of the investigation shall be prepared and made available to the  
11 parties or to counsel, if represented, and to the minor's parent, guardian or custodian,  
12 as early as feasible but in any case at least 48 hours prior to the hearing. Written  
13 reports and other materials relating to the minor's mental, physical, educational and  
14 social history and other relevant information are governed by the Rules of Evidence.  
15 The court may require, and shall require if requested by a party, that any person  
16 preparing the report or materials be present for direct and cross examination.

17       (b)(1) After a finding of probable cause in accordance with Rule 22, the court shall  
18 hear evidence and determine whether it would be contrary to the best interests of the  
19 minor or of the public for the court to retain jurisdiction. The state has the burden to  
20 prove by a preponderance of the evidence the factors required in Section 78A-6-703 to  
21 be considered by the court.

22       (b)(2) At the conclusion of the state's case, the minor may testify under oath, call  
23 witnesses, and present evidence on the factors required by Section 78A-6-703 to be  
24 considered by the court. The minor may cross-examine adverse witnesses.

25       (c) The court shall make findings on each factor for which evidence is presented. If  
26 the motion to waive jurisdiction and certify is granted, the court shall indicate which  
27 factor or factors were relied upon as a basis for the decision. If the court finds by a  
28 preponderance of the evidence that it would be contrary to the best interests of the  
29 minor or of the public for the court to retain jurisdiction, the court shall enter an order  
30 directing the minor to answer the charges in district court.

31 (d)(1) Upon entry of an order directing the minor to answer the charges in district  
32 court, the court shall comply with the requirements of Title 77, Chapter 20, Bail. By  
33 issuance of a warrant of arrest or continuance of an existing warrant, the court may  
34 order the minor committed to jail in accordance with Section 62A-7-201. The court shall  
35 enter the appropriate written order.

36 (d)(2) Once the minor is bound over to district court, a determination regarding  
37 where the minor is held shall be made pursuant to Section 78A-6-703.

38 (d)(3) The clerk of the juvenile court shall transmit to the clerk of the district court all  
39 pleadings in and records made of the proceedings in the juvenile court.

40 (d)(~~3~~4) The jurisdiction of the court shall terminate as provided by statute.

41 (e) If the court finds probable cause to believe that a felony has been committed and  
42 that the minor committed it but does not find that it would be contrary to the best  
43 interests of the minor or of the public for the court to retain jurisdiction, the court shall  
44 proceed upon the information as if it were a petition. The court may order the minor held  
45 in a detention center or released in accordance with Rule 9.

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