

1 **Rule 23A. Hearing on conditions of Section 78A-6-702; bind over to district**
2 **court.**

3 (a) If a criminal indictment under Section 78A-6-702 alleges the commission of a
4 felony, the court shall, upon the request of the minor, hear evidence and determine
5 whether the conditions of paragraph (c) exist.

6 (b) If a criminal information under Section 78A-6-702 alleges the commission of a
7 felony, after a finding of probable cause in accordance with Rule 22, the court shall hear
8 evidence and determine whether the conditions of paragraph (c) exist.

9 (c) The minor shall have the burden of going forward as to the existence of the
10 following conditions as provided by Section 78A-6-702:

11 (c)(1) the minor has not been previously adjudicated delinquent for an offense
12 involving the use of a dangerous weapon which would be a felony if committed by an
13 adult;

14 (c)(2) that if the offense was committed with one or more other persons, the minor
15 appears to have a lesser degree of culpability than the codefendants; and

16 (c)(3) that the minor's role in the offense was not committed in a violent, aggressive,
17 or premeditated manner.

18 (d) At the conclusion of the minor's case, the state may call witnesses and present
19 evidence on the conditions required by Section 78A-6-702. The minor may cross-
20 examine adverse witnesses.

21 (e) If the court does not find by clear and convincing evidence that the conditions
22 required by Section 78A-6-702 are present, the court shall enter an order directing the
23 minor to answer the charges in district court.

24 (f)(1) Upon entry of an order directing the minor to answer the charges in district
25 court, the court shall comply with the requirements of Title 77, Chapter 20, Bail. By
26 issuance of a warrant of arrest or continuance of an existing warrant, the court may
27 order the minor committed to jail in accordance with Section 62A-7-201. ~~The court may~~
28 ~~order the minor held in a detention center or released in accordance with Rule 9.~~ The
29 court shall enter the appropriate written order.

30 (f)(2) The clerk of the juvenile court shall transmit to the clerk of the district court all
31 pleadings in and records made of the proceedings in the juvenile court.

32 (f)(3) The jurisdiction of the court shall terminate as provided by statute.

33 (g) If the court finds probable cause to believe that a felony has been committed and
34 that the minor committed it and also finds that all of the conditions of Section 78A-6-702
35 are present, the court shall proceed upon the information as if it were a petition. [The](#)
36 [court may order the minor held in a detention center or released in accordance with](#)
37 [Rule 9.](#)

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