

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

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

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

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

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

25 (b)(2) At the conclusion of the state's case, the minor may testify under
26 oath, call witnesses, and present evidence on the factors required by Section

27 78A-6-703 to be considered by the court. The minor may cross-examine
28 adverse witnesses.

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

36 (d)(1) Upon entry of an order directing the minor to answer the charges in
37 district court, the court shall comply with the requirements of Title 77, Chapter
38 20, Bail. By issuance of a warrant of arrest or continuance of an existing
39 warrant, the court may order the minor committed to jail in accordance with
40 Section 62A-7-201. The court shall enter the appropriate written order.

41 (d)(2) Once the minor is bound over to district court a determination
42 regarding where the minor is held shall be made pursuant to section 78A-6-
43 703.

44 (d)(~~23~~) The clerk of the juvenile court shall transmit to the clerk of the
45 district court all pleadings in and records made of the proceedings in the
46 juvenile court.

47 (d)(~~34~~) The jurisdiction of the court shall terminate as provided by statute.

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