

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

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

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

11 (c) The minor shall have the burden of going forward and presenting  
12 evidence of the following conditions as provided in Section 78A-6-702:~~as to~~  
13 ~~the existence of the following conditions as provided by Section 78A-6-702:~~

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

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

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

22 (c)(4) the number and nature of the minor's prior adjudications in the  
23 juvenile court; and

24 (c)(5) that public safety is better served by adjudicating the minor in the  
25 juvenile court or in the district court.

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

29 (e) If the court does not find by clear and convincing evidence that it would  
30 be contrary to the best interest of the minor and the best interests of the public  
31 to bind the minor over to the jurisdiction of the district court, ~~the conditions~~  
32 ~~required by Section 78A-6-702 are present,~~ the court shall enter an order  
33 directing the minor to answer the charges in district court.

34 (f)(1) Upon entry of an order directing the minor to answer the charges in  
35 district court, the court shall comply with the requirements of Title 77, Chapter  
36 20, Bail. By issuance of a warrant of arrest or continuance of an existing

37 warrant, the court may order the minor committed to jail in accordance with  
38 Section 62A-7-201. The court shall enter the appropriate written order.

39 (f)(2) Once the minor is bound over to district court a determination  
40 regarding where the minor is held shall be made pursuant to 78A-6-702.

41 (f)(2)(3) The clerk of the juvenile court shall transmit to the clerk of the  
42 district court all pleadings in and records made of the proceedings in the  
43 juvenile court.

44 (f)(3)(4) The jurisdiction of the court shall terminate as provided by statute.

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

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