

1 **Rule 7. Initial Proceedings for Class A misdemeanors and Felonies.**

2 (a) **First appearance.** At the defendant's first appearance, the court must inform the defendant:

3 (a)(1) of the charge in the information or indictment and furnish a copy;

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

6 (a)(3) of the right to retain counsel or have counsel appointed by the court without expense if
7 unable to obtain counsel;

8 (a)(4) of rights concerning pretrial release, including bail; and

9 (a)(5) that the defendant is not required to make any statement, and that any statement the
10 defendant makes may be used against the defendant in a court of law.

11 (b) **Right to counsel.** If the defendant is present at the initial appearance without counsel, the
12 court must determine if the defendant is capable of retaining the services of an attorney within a
13 reasonable time. If the court determines the defendant has such resources, the court must allow
14 the defendant a reasonable time and opportunity to retain and consult with counsel. If the court
15 determines the defendant is indigent, the court must appoint counsel pursuant to Rule 8, unless
16 the defendant knowingly and intelligently waives the right to counsel.

17 (c) **Release conditions.**

18 (c)(1) If counsel are present and prepared, the court must address whether the defendant is
19 entitled to pretrial release pursuant to Utah Code § 77-20-1, and if so, what if any conditions the
20 court will impose to reasonably ensure the continued appearance of the defendant, integrity of
21 the judicial process, and safety of the community. The court must utilize the least restrictive
22 conditions needed to meet those goals.

23 (c)(2) The determination of pretrial release eligibility and conditions may be reviewed and
24 modified upon application by either party based on a material change in circumstances, or other
25 good cause.

26 (d) **Continuances.** If counsel are not prepared, the court shall allow up to a seven day
27 continuance of the hearing to allow for preparation, including notification to any victims. The
28 court may allow more than seven days with the consent of the defendant.

29 (e) **Right to preliminary examination.**

30 (e)(1) The court must inform the defendant of the right to a preliminary examination and the
31 times for holding the hearing. If the defendant waives the right to a preliminary examination,
32 and the prosecuting attorney consents, the court must order the defendant bound over for trial.
33 (e)(2) If the defendant does not waive a preliminary examination, the court must schedule the
34 preliminary examination upon request. The examination must be held within a reasonable time,
35 but not later than 14 days if the defendant is in custody for the offense charged and not later than
36 28 days if the defendant is not in custody. These time periods may be extended by the magistrate
37 for good cause shown. Upon consent of the parties, the court may schedule the case for other
38 proceedings before scheduling a preliminary hearing.
39 (e)(3) A preliminary examination may not be held if the defendant is indicted.

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