

1 **Rule 9. Detention hearings; scheduling; hearing procedure.**

2 (a) The officer in charge of the detention facility shall provide to the court a copy of the
3 report required by Section 78A-6-112.

4 (b) If a minor is admitted into a detention facility without a warrant, the court shall make a
5 determination whether there is probable cause for the minor's arrest, within 24 hours of the
6 minor's admission to detention including weekends and holidays.

7 (c) The court shall hold a detention hearing within 48 hours of the minor's admission to
8 detention. A minor may not be held in a detention facility longer than 48 hours before a detention
9 hearing, excluding weekends and holidays, unless the court has entered an order for continued
10 detention. The officer in charge of the detention facility shall notify the minor, parent, guardian
11 or custodian and attorney of the date, time, place and manner of such hearing.

12 (d) The court may at any time order the release of a minor whether a detention hearing is held
13 or not.

14 (e) A probable cause determination and detention hearing may occur concurrently so long as
15 the probable cause determination and the detention hearing occur pursuant to the time frames in
16 paragraphs (b) and (c).

17 (f) The court may order a minor to be held in the detention facility or placed in another
18 appropriate facility, subject to further order of the court, only if the court finds at the detention
19 hearing that:

20 (f)(1) releasing the minor to the minor's parents, guardian, or custodian presents an
21 unreasonable risk to public safety;

22 (f)(2) less restrictive nonresidential alternatives to detention have been considered and, where
23 appropriate, attempted; and

24 (f)(3) the minor is eligible for detention under the division guidelines for detention admission
25 established by the Division of Juvenile Justice Services, under Section 62A-7-202 and under
26 Section 78A-6-112.

27 (g) At the beginning of the detention hearing, the court shall advise all persons present as to
28 the reasons or allegations giving rise to the minor's admission to detention and the limited scope
29 and purpose of the hearing. If the minor is to be arraigned at the detention hearing, the provisions
30 of Rules 24 and 26 shall apply.

31 (h) The court may receive any information, including hearsay and opinion, that is relevant to
32 the decision whether to detain or release the minor. Privileged communications may be
33 introduced only in accordance with the Utah Rules of Evidence.

34 (i) A detention hearing may be held without the presence of the minor's parent, guardian or
35 custodian if they fail to appear after receiving notice. The court may delay the hearing for up to
36 48 hours to permit the parent, guardian or custodian to be present or may proceed subject to the
37 rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or
38 without the minor's request.

39 (j) If the court determines that no probable cause exists for the arrest or the offense or
40 condition alleged does not meet the requirements in Rule 6 as a basis for admission, it shall order
41 the minor released immediately without restrictions.

42 (k) If the court determines that a less restrictive alternative to detention is appropriate it may
43 place the minor on home detention, another alternative program, or order the minor's release
44 upon compliance with certain conditions pending further proceedings. Such conditions may
45 include:

46 (k)(1) a requirement that the minor remain in the physical care and custody of a parent,
47 guardian, custodian or other suitable person;

48 (k)(2) a restriction on the minor's travel, associations or residence during the period of the
49 minor's release; and

50 (k)(3) other requirements deemed reasonably necessary and consistent with the criteria for
51 detaining the minor.

52 (I) If the court determines that probable cause exists as to the offense or condition alleged as
53 a basis for the minor's admission to detention but that the minor can be safely left in the care and

54 custody of the parent, guardian or custodian present at the hearing, it may order release of the
55 minor upon the promise of the minor and the parent, guardian or custodian to return to court for
56 further proceedings when notified.

57 (m) If the court determines that the offense is one governed by Utah Code §78A-6-703.2,
58 §78A-6-703.3, §78A-6-703.5, or §78A-6-703.6, ~~Section 78A-6-701, Section 78A-6-702, or~~
59 ~~Section 78A-6-703,~~ the court may by issuance of a warrant of arrest order the minor committed
60 to the county jail in accordance with ~~Section~~ Utah Code §62A-7-201.

61 (n) Any predisposition order to detention shall be reviewed by the court once every seven
62 days, unless the minor is ordered to home detention or an alternative detention program.
63 Predisposition orders to home detention or an alternative detention program shall be reviewed by
64 the court once every 15 days. The court may, on its own motion or on the motion of any party,
65 schedule a detention review hearing at any time.

66 Effective November 1, 2020