

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  
5 to obtain them;

6 (a)(3) of the right to retain counsel or have counsel appointed by the court without  
7 expense if 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 ~~(b)~~ **Release conditions.**

18 ~~(b)(1) Except as provided in paragraph (c), the court must address whether the defendant~~  
19 ~~is entitled to pretrial release issue a pretrial status order pursuant to Utah Code § section~~  
20 ~~77-20-1. Parties should be prepared to address this issue, including notice requirements~~  
21 ~~under Utah Code section 77-37-3 and Utah Code section 77-38-3, and if so, what if any~~  
22 ~~conditions the court will impose to reasonably ensure the continued appearance of the~~  
23 ~~defendant, integrity of the judicial process, and safety of the community. The court must~~  
24 ~~utilize the least restrictive conditions needed to meet those goals.~~

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

28 ~~(b)(2) A motion to modify the pretrial status order issued at initial appearance may be~~  
29 ~~made by either party at any time upon notice to the opposing party sufficient to permit the~~  
30 ~~opposing party to prepare for the hearing and to permit each alleged victim to be notified~~  
31 ~~and be present.~~

32 ~~(b)(3) Subsequent motions to modify a pretrial status order may be made only upon a~~  
33 ~~showing that there has been a material change in circumstances.~~

34 | (b)(4) A hearing on a motion to modify a pretrial status order may be held in conjunction  
35 | with a preliminary hearing or any other pretrial hearing.

36 | ~~(c)~~ **Continuances.** ~~If counsel are not prepared~~ Upon application of either party and a showing  
37 | of good cause, the court ~~shall~~ may allow up to a seven day continuance of the hearing to allow  
38 | for preparation, including notification to any victims. The court may allow more than seven days  
39 | with the consent of the defendant.

40 | ~~(d)~~ **Right to preliminary examination.**

41 | ~~(d)~~(1) The court must inform the defendant of the right to a preliminary examination and  
42 | the times for holding the hearing. If the defendant waives the right to a preliminary  
43 | examination, and the prosecuting attorney consents, the court must order the defendant  
44 | bound over for trial.

45 | ~~(d)~~(2) If the defendant does not waive a preliminary examination, the court must  
46 | schedule the preliminary examination upon request. The examination must be held within  
47 | a reasonable time, but not later than 14 days if the defendant is in custody for the offense  
48 | charged and not later than 28 days if the defendant is not in custody. These time periods  
49 | may be extended by the magistrate for good cause shown. Upon consent of the parties,  
50 | the court may schedule the case for other proceedings before scheduling a preliminary  
51 | hearing.

52 | ~~(d)~~(3) A preliminary examination may not be held if the defendant is indicted.

53 | Effective ~~May 1, 2018~~ October 1, 2020