

1 **10-1-407. Time to charge**

2 Intent:

3 A rule relating to the time and conditions between arrest and first appearance for non-petty offenses.

4 Applicability:

5 All Felony and Class A Misdemeanor charges as identified in the statement of probable cause supplied  
6 upon booking at the jail when the Defendant has been arrested without a warrant and remains in custody,  
7 having not posted bail.

8 Statement of the Rule:

9 (a) A person arrested for a non-petty offense who is unable to post bail and remains in custody shall be  
10 taken before a District Judge before the close of business on the 4<sup>th</sup> (fourth) business day after arrest.

11 The first day commences at the first 8 a.m. time to occur on a working day after arrest. At the initial  
12 appearance the Court will comply with the Utah Rules of Criminal Procedure Rules 7(e) and (f) and, in  
13 particular:

- 14 1. Provide the arrestee a copy of the information;
- 15 2. Confirm the accuracy of the name, address and date of birth as included in the information;
- 16 3. Confirm that the arrestee understands the nature of the charges and any potential penalty;
- 17 4. Rule upon any request for appointed counsel or otherwise confirm if the Defendant will be  
18 retaining counsel;
- 19 5. Consider any request to modify bail; and,
- 20 6. Set the matter for the next available hearing before the Division of the District Court randomly  
21 assigned to the case.

22 (b) If a criminal information has not been filed by the time of the hearing, the arrestee shall be discharged  
23 and the matter closed without prejudice unless the State is allowed additional time to screen and charge.  
24 The Court shall consider a request for additional time to screen and prepare charges if presented, in  
25 writing, by counsel for the State. The request shall be granted for a reasonable period of time upon a  
26 showing of good cause. In such an event the hearing described in the preceding subsection (a) shall be  
27 continued to a certain date and time. In such an event the arrestee will continue to be held, subject to the  
28 established order of bail.

29 (c) If a criminal information has not been prepared and no order for additional time to screen and file  
30 charges has been made, the arrestee will be released without requirement for bail or surety but upon a  
31 promise to appear on the first appearance calendar one week or less at a future date. The promise to  
32 appear shall include a residential address which the arrestee affirms to be accurate.

33 (d) At the subsequent hearing date and time, set as provided in subsection (b) or (c), preceding:

- 34 (1) if an information has been filed and the arrestee is present the Court shall proceed as  
35 provided in subsection (a), preceding.

36           (2) If an information has been filed but the arrestee fails to appear as promised, the Court may  
37 consider and grant a warrant for the arrest of the arrestee with such bail as is appropriate in the discretion  
38 of the Judge.

39           (3) If an information has not been filed, whether the arrestee is present or not, the case shall be  
40 closed without prejudice.