

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

(a) The officer in charge of the detention facility shall provide to the court a copy of the report required by Section 78A-6-112. ~~At a detention hearing, the court shall order the release of the minor to the parent, guardian or custodian unless there is reason to believe:~~

~~(a)(1) the minor will abscond or be taken from the jurisdiction of the court unless detained;~~

~~(a)(2) the offense alleged to have been committed would be a felony if committed by an adult;~~

~~(a)(3) the minor's parent, guardian or custodian cannot be located;~~

~~(a)(4) the minor's parent, guardian or custodian refuses to accept custody of the minor;~~

~~(a)(5) the minor's parent, guardian or custodian will not produce the minor before the court at an appointed time;~~

~~(a)(6) the minor will undertake witness intimidation;~~

~~(a)(7) the minor's past record indicates the minor may be a threat to the public safety;~~

~~(a)(8) the minor has problems of conduct or behavior so serious or the family relationships are so strained that the minor is likely to be involved in further delinquency; or~~

~~(a)(9) the minor has failed to appear for a court hearing within the past twelve months.~~

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

24 (c) The court may at any time order the release of a minor whether a detention hearing is held  
25 or not.

26 (d) The court may order a minor to be held in the detention facility or be placed in another  
27 appropriate facility, subject to further order of the court, only if the court finds at a detention  
28 hearing that:

29 (d)(1) releasing the minor to minor's parent, guardian, or custodian presents an unreasonable  
30 risk to public safety;

31 (d)(2) less restrictive non-residential alternatives to detention have been considered and,  
32 where appropriate, attempted; and

33 (d)(3) the minor is eligible for detention under the division guidelines for detention  
34 admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202  
35 and under Section 78A-6-112.

36 ~~(e)~~ At the beginning of the detention hearing, the court shall advise all persons present as to  
37 the reasons or allegations giving rise to the minor's admission to detention and the limited scope  
38 and purpose of the hearing as set forth in paragraph (g). If the minor is to be arraigned at the  
39 detention hearing, the provisions of Rules 24 and 26 shall apply.

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

43 ~~(g)~~ A detention hearing may be held without the presence of the minor's parent, guardian or  
44 custodian if they fail to appear after receiving notice. The court may delay the hearing for up to  
45 48 hours to permit the parent, guardian or custodian to be present or may proceed subject to the  
46 rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or  
47 without the minor's request.

48 ~~(h)~~ If the court determines that no reasonable basis exists for the offense or condition  
49 alleged as required in Rule 6 as a basis for admission, it shall order the minor released  
50 immediately without restrictions.

51 | (i) If the court determines that ~~reasonable cause exists for continued detention~~, a less  
52 | restrictive alternative to detention is appropriate it may ~~order continued detention~~, place the  
53 | minor on home detention, another alternative program, or order the minor's release upon  
54 | compliance with certain conditions pending further proceedings. Such conditions may  
55 | include:

56 | ~~(ihg)~~(1) a requirement that the minor remain in the physical care and custody of a parent,  
57 | guardian, custodian or other suitable person;

58 | ~~(ihg)~~(2) a restriction on the minor's travel, associations or residence during the period of the  
59 | minor's release; and

60 | ~~(ihg)~~(3) other requirements deemed reasonably necessary and consistent with the criteria for  
61 | detaining the minor.

62 | ~~(jih)~~ If the court determines that a reasonable basis exists as to the offense or condition  
63 | alleged as a basis for the minor's admission to detention but that the minor can be safely left in  
64 | the care and custody of the parent, guardian or custodian present at the hearing, it may order  
65 | release of the minor upon the promise of the minor and the parent, guardian or custodian to  
66 | return to court for further proceedings when notified.

67 | ~~(kji)~~ If the court determines that the offense is one governed by Section 78A-6-701, Section  
68 | 78A-6-702, or Section 78A-6-703, the court may by issuance of a warrant of arrest order the  
69 | minor committed to the county jail in accordance with Section 62A-7-201.

70 | ~~(lkj)~~ Any predisposition order to detention shall be reviewed by the court once every seven  
71 | days, unless the minor is ordered to home detention or an alternative detention program.  
72 | Predisposition orders to home detention or an alternative detention program shall be reviewed by  
73 | the court once every 15 days. The court may, on its own motion or on the motion of any party,  
74 | schedule a detention review hearing at any time.

75 | Advisory Committee Notes

76 | Paragraph (j) of this Rule is a change to permit the court to review the detention  
77 | order without waiting for a party to bring the issue to the court.