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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) If a minor is admitted into a detention facility without a warrant, the court shall make a determination whether there is a reasonable basis for admission within 24 hours including weekends and holidays.

~~(c)(b)~~ The court shall hold a detention hearing within 48 hours of the minor's admission to detention. 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

24 detention. The officer in charge of the detention facility shall notify the minor, parent, guardian
25 or custodian and attorney of the date, time, place and manner of such hearing.

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

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

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

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

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

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

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

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

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

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

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

60 (j))(2) a restriction on the minor's travel, associations or residence during the period of the
61 minor's release; and

62 (j))(3) other requirements deemed reasonably necessary and consistent with the criteria for
63 detaining the minor.

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

69 (l)~~(k)~~ If the court determines that the offense is one governed by Section 78A-6-701, Section
70 78A-6-702, or Section 78A-6-703, the court may by issuance of a warrant of arrest order the
71 minor committed to the county jail in accordance with Section 62A-7-201.

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

77 Advisory Committee Notes

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