

1 **Rule 23A. Hearing on conditions of Section 78A-6-702; bind over to district court.**

2 (a) If a criminal indictment under Section 78A-6-702 alleges the commission of a felony, the
3 court shall, upon the request of the minor, hear evidence and consider the conditions in
4 paragraph (c).

5 (b) If a criminal information under Section 78A-6-702 alleges the commission of a felony,
6 after a finding of probable cause in accordance with Rule 22, the court shall hear evidence and
7 determine whether the conditions of paragraph (c) exist.

8 (c) The minor shall have the burden of going forward and presenting evidence of the
9 following conditions as provided in Section 78A-6-702:

10 (c)(1) the minor has not been previously adjudicated delinquent for an offense involving the
11 use of a dangerous weapon which would be a felony if committed by an adult;

12 (c)(2) that if the offense was committed with one or more other persons, the minor appears to
13 have a lesser degree of culpability than the codefendants;

14 (c)(3) that the minor's role in the offense was not committed in a violent, aggressive, or
15 premeditated manner;

16 (c)(4) the number and nature of the minor's prior adjudications in the juvenile court; and

17 (c)(5) that public safety is better served by adjudicating the minor in the juvenile court or in
18 the district court.

19 (d) At the conclusion of the minor's case, the state may call witnesses and present evidence
20 on the conditions required by Section 78A-6-702. The minor may cross-examine adverse
21 witnesses.

22 (e) If the court does not find by a preponderance of ~~clear and convincing~~ evidence that it
23 would be contrary to the best interest of the minor and the best interests of the public to bind the
24 minor over to the jurisdiction of the district court, the court shall enter an order directing the
25 minor to answer the charges in district court.

26 (f)(1) Upon entry of an order directing the minor to answer the charges in district court, the
27 court shall comply with the requirements of Title 77, Chapter 20, Bail. By issuance of a warrant
28 of arrest or continuance of an existing warrant, the court may order the minor committed to jail
29 in accordance with Section 62A-7-201. The court shall enter the appropriate written order.

30 (f)(2) Once the minor is bound over to district court, a determination regarding where the
31 minor is held shall be made pursuant to Section 78A-6-702.

32 (f)(3) The clerk of the juvenile court shall transmit to the clerk of the district court all
33 pleadings in and records made of the proceedings in the juvenile court.

34 (f)(4) The jurisdiction of the court shall terminate as provided by statute.

35 (g) If the court finds probable cause to believe that a felony has been committed and that the
36 minor committed it and also finds that all of the conditions of Section 78A-6-702 are present, the
37 court shall proceed upon the information as if it were a petition. The court may order the minor
38 held in a detention center or released in accordance with Rule 9.

39 Effective Date: May 1, 2018