

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 2001

In the Matter of the Adoption)
of Amendments to the Wyoming)
Rules of Criminal Procedure)

IN THE SUPREME COURT
STATE OF WYOMING
FILED

JUL 24 2001

JUDY PACHECO, CLERK
C. Thompson
by DEPUTY

**ORDER ADOPTING AMENDMENTS TO THE
WYOMING RULES OF CRIMINAL PROCEDURE**

The Board of Judicial Policy and Administration, upon the recommendation of the Permanent Rules Advisory Committee, Criminal Division, has determined that amendments to the Wyoming Rules of Criminal Procedure are necessary. It is therefore

ORDERED that the amendments to the Wyoming Rules of Criminal Procedure, a copy of which is attached hereto, are adopted and that those amendments be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter. The amendments shall be effective November 1, 2001, and thereafter shall be spread at length upon the journal of this Court.

DATED this 24 day of July 2001.

BY THE COURT:



LARRY L. LEHMAN
Chief Justice
Chairman, Board of Judicial
Policy and Administration

RULE 5. INITIAL APPEARANCE

(a) Initial Appearance Before a Judicial Officer. A person arrested and in custody shall be taken without unnecessary delay before a judicial officer of the court from which the warrant issued or if no warrant has issued before a judicial officer of the court where the charging document will be filed. A person arrested without a warrant shall be released from custody ~~after 48 hours~~ unless probable cause for the arrest is established to the satisfaction of a judicial officer ~~without unnecessary delay, but in no more than 72 hours~~. When a person arrested without a warrant is brought before a judicial officer an information or citation shall be filed at or before the initial appearance and, unless a judicial officer has previously found probable cause for the arrest, probable cause shall be established by affidavit or sworn testimony. When a person, arrested with or without a warrant or given a summons, appears initially before the judicial officer, the judicial officer shall proceed in accordance with the applicable subdivision of this rule.

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RULE 46.1 PRETRIAL RELEASE

(a) Applicability of Rule. All persons shall be bailable by sufficient sureties, except for capital cases when the proof is evident or the presumption great. Excessive bail shall not be required. When a person charged with the commission of a crime is brought before a court or has made a written application to be admitted to bail, a judicial officer shall order that such person be released or detained pending judicial proceedings, under this rule.

(1) Request for Release. Within four hours after a person is confined to jail, the custodial officer shall advise the person of the right to file a written request with the court to be granted pretrial release. The custodial officer shall provide the necessary writing materials.

(A) No particular form of request for pretrial release shall be required and the request may be hand-written.

(B) The custodial officer shall endorse the date and time upon any written request for pretrial release and deliver it to the court:

(i) Immediately, if made during the court's regular hours; and

(ii) Without unnecessary delay, but in no event more than 48 72 hours, ~~if made other than during the court's regular hours.~~

(C) Except as provided for in (a)(2) below, All all persons in custody who have made a request for pretrial release shall have the request considered by a judicial officer, with or without a hearing, ~~within 48 hours of the request~~ without unnecessary delay, but in no more than 72 hours. If the decision upon the request was made without a hearing and does not result in the person's release from custody, the judicial officer shall hold a hearing ~~within 48 hours of the request~~ to reconsider the release decision. The confined person or the confined person's attorney shall have an opportunity to participate in the hearing without unnecessary delay, but in no more than 72 hours.

(D) If a request for pretrial release is presented to the court before criminal charges have been filed, it shall be docketed as a criminal case and if criminal charges are later filed they shall be filed in the same case.

(E) Rule 46.1(a)(1) does not apply to persons in custody upon a petition to revoke probation.

(2) Appearance Before Court. Upon a person's first appearance before the court, and upon motion of either party, the Court may, for good cause shown, delay granting of bond for a period of time not to exceed 24 hours. In any event, the judicial officer shall order that, pending trial or the filing of charges, the person be:

(A) Released on personal recognizance or upon execution of an unsecured appearance bond, under subdivision (b); and

(B) Released on a condition or combination of conditions under subdivision (c).

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