



## SUPREME COURT OF GEORGIA

Atlanta May 11, 2017

The Honorable Supreme Court met pursuant to adjournment.  
The following order was passed:

It is ordered that Uniform Magistrate Court Rule 23.2 (relating to bail in felony cases) and Rule 25.1 (relating to initial appearance hearing) be amended, effective June 1, 2017, as follows:

### **PART II. CRIMINAL RULES**

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#### **Rule 23. Bail in Criminal Cases**

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##### **23.2. Felony Cases**

Bail in felony cases may be set by the magistrate court except for those offenses as to which OCGA § 17-6-1 or § 17-10-1 provides that bail shall be set by the superior court or shall not be available. All defendants in custody must be presented to this court for initial appearance within the time requirements of OCGA § 17-4-26 and § 17-4-62 for further consideration of bail.

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#### **Rule 25. Initial Appearance/Commitment Hearings**

##### **25.1. Initial Appearance Hearing**

Immediately following any arrest but no later than 48 hours if the arrest was without a warrant, or 72 hours following an arrest with a warrant, unless the accused has made bond in the meantime, the arresting officer or the law officer having custody of the accused shall present the accused in person before a magistrate or other judicial officer for first appearance.

At the first appearance, the judicial officer shall:

- (1) Inform the accused of the charges;
- (2) Inform the accused of the right to the presence and advice of an attorney, either retained or appointed, of the right to remain silent, and that any statement made may be used against him or her;

- (3) Determine whether or not the accused desires and is in need of an appointed attorney and, if appropriate, advise the accused of the necessity for filing a written application;
- (4) Inform the accused of the right to a pre-indictment commitment hearing, that the hearing will be postponed if the accused requests additional time to obtain counsel or subpoena witnesses or if the state requests additional time to prepare its case, and inform the accused that giving a bond returnable to arraignment or trial shall be a waiver of the right to a commitment hearing although a magistrate may in his or her discretion hold a commitment hearing pursuant to Rule 25.2(A);
- (5) Schedule a commitment hearing if authorized and if requested by the defendant and so notify the prosecuting attorney and the law officer having custody of the accused;
- (6) In cases of warrantless arrest, unless a subsequent determination of probable cause has been made, make a fair and independent determination of probable cause for the arrest;
- (7) Inform the accused of the right to grand jury indictment in felony cases, to accusation in misdemeanor cases, to uniform traffic citation in traffic cases, and the right to trial by jury, and, in felony cases, when the next grand jury will convene; in felony cases subject to OCGA § 17-7-70.1 (involving violations of OCGA §§ 16-8-2, 16-8-14, 16-8-18, 16-9-1, 16-9-20, 16-9-31, 16-9-33, 16-9-37, 16-10-52, and 40-5-58), inform the accused that if the commitment hearing is expressly waived or the accused is bound over after the commitment hearing, the district attorney may prepare an accusation or seek an indictment;
- (8) Inform the accused that the accused or his or her attorney may waive the right to a commitment hearing; and
- (9) Consider and announce a bail decision, if the offense is not one bailable only by a superior court judge, or so inform the accused if it is.

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from  
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto  
affixed the day and year last above written.

 Clerk