

Rule Change #1999 (16)

**CHAPTER 29. COLORADO RULES OF CRIMINAL PROCEDURE**  
**II. INITIATION OF PRELIMINARY FELONY PROCEEDINGS**  
**Rule 5. Preliminary Proceedings**

**(a) Felony Proceedings.**

(1) through (3) \* \* \* \* [NO CHANGE]

**(4) Preliminary Hearing -- County Court Procedures.**

Every person accused of a CLASS 1, 2, OR 3 felony in a felony complaint has the right to demand and receive a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the felony complaint was committed by the defendant. IN ADDITION, ONLY THOSE PERSONS ACCUSED OF A CLASS 4, 5, OR 6 FELONY BY FELONY COMPLAINT WHICH FELONY REQUIRES MANDATORY SENTENCING OR IS A CRIME OF VIOLENCE AS DEFINED IN SECTION 16-11-309 OR IS A SEXUAL OFFENSE UNDER PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., SHALL HAVE THE RIGHT TO DEMAND AND RECEIVE A PRELIMINARY HEARING TO DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE OFFENSE CHARGED IN THE FELONY COMPLAINT WAS COMMITTED BY THE DEFENDANT. HOWEVER, ANY DEFENDANT ACCUSED OF A CLASS 4, 5, OR 6 FELONY WHO IS NOT OTHERWISE ENTITLED TO A PRELIMINARY HEARING MAY DEMAND AND SHALL RECEIVE A PRELIMINARY HEARING IF THE DEFENDANT IS IN CUSTODY; EXCEPT THAT, UPON MOTION OF EITHER PARTY, THE COURT SHALL VACATE THE PRELIMINARY HEARING IF THERE IS A REASONABLE SHOWING THAT THE DEFENDANT HAS BEEN RELEASED FROM CUSTODY PRIOR TO THE PRELIMINARY HEARING. ANY PERSON ACCUSED OF A CLASS 4, 5, OR 6 FELONY WHO IS NOT ENTITLED TO A PRELIMINARY HEARING SHALL, UNLESS OTHERWISE WAIVED, PARTICIPATE IN A DISPOSITIONAL HEARING FOR THE PURPOSES OF CASE EVALUATION AND POTENTIAL RESOLUTION. The following procedures shall govern the holding of a preliminary hearing:

(I) and (II) \* \* \* \* [NO CHANGE]

(III) If the county court determines such probable cause exists OR IF THE CASE IS NOT OTHERWISE RESOLVED PURSUANT TO A DISPOSITIONAL HEARING IF NO PRELIMINARY HEARING WAS HELD, it shall order the defendant bound over to the appropriate court of record for trial. In appropriate cases, the defendant may be admitted to or continued on bail by the county court, but bond shall be made returnable in the trial court and at a day and time certain. All county court records, except the reporter's transcript notes, or recording, shall be transferred forthwith by the clerk of

the county court to the clerk of the appropriate court of record.

(IV) and (V) \* \* \* \* [NO CHANGE]

(4.5) A DISPOSITIONAL HEARING IS AN OPPORTUNITY FOR THE PARTIES TO REPORT TO THE COURT ON THE STATUS OF DISCUSSIONS TOWARD DISPOSITION, INCLUDING PRESENTING ANY RESOLUTION PURSUANT TO C.R.S. 16-7-302. THE COURT SHALL SET THE DISPOSITIONAL HEARING AT A TIME THAT WILL AFFORD THE PARTIES AN OPPORTUNITY FOR CASE EVALUATION AND POTENTIAL RESOLUTION.

(5) **Procedure Upon Failure to Request Preliminary Hearing.** \* \* \* \* [NO CHANGE]

(b) and (c) \* \* \* \* [NO CHANGE]

**Amended and Adopted by the Court, En Banc, November 4, 1999, effective January 1, 2000.**

**BY THE COURT:**

**Alex J. Martinez  
Justice, Colorado Supreme Court**