

**RULE CHANGE 2018(15)**  
**COLORADO RULES OF CRIMINAL PROCEDURE**

## Rule 5. Preliminary Proceedings

(a) through (a)(3) [NO CHANGE]

**(a)(4) Preliminary Hearing – County Court Procedures.** Every person accused of a class 1, 2, or 3 felony [or a level 1 or 2 drug 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 [or a level 3 or 4 drug felony](#) by felony complaint which felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 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 [or a level 3 or 4 drug felony](#) who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; 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 [or a level 3 or 4 drug 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:

(a)(4)(I) through (a)(4)(VIII) [NO CHANGE]

(a)(4.5) through (a)(5) [NO CHANGE]

(b) through (c) [NO CHANGE]

## Rule 7. The Indictment and the Information

(a) through (h) [NO CHANGE]

**(h)(1)** In cases in which a direct information was filed pursuant to Rule 7(c), charging: (1) a class 1, 2, or 3 felony; (2) a level 1 or 2 drug felony; or (3) a class 4, 5, or 6 felony or a level 3 or 4 drug felony if such felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 or is a sexual offense under part 4 of article 3 of title 18, C.R.S., a preliminary hearing is authorized. Either the defendant or the prosecutor may request a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the information has been committed by the defendant. However, any defendant accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; 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 or a level 3 or 4 drug felony who may not request a preliminary hearing shall participate in a dispositional hearing unless otherwise waived for the purposes of case evaluation and potential resolution. Except upon a finding of good cause, the request for a preliminary hearing must be made within 7 days after the defendant is brought before the court for or following the filing of the information in that court and prior to a plea. No request for a preliminary hearing may be filed in a case which is to be tried upon indictment.

**(h)(2) through (h)(5)** [NO CHANGE]

**(i)** [NO CHANGE]

## **Rule 5. Preliminary Proceedings**

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**(a)(4) Preliminary Hearing – County Court Procedures.** Every person accused of a class 1, 2, or 3 felony or a level 1 or 2 drug 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 or a level 3 or 4 drug felony by felony complaint which felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 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 or a level 3 or 4 drug felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; 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 or a level 3 or 4 drug 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:

**(a)(4)(I)** through **(a)(4)(VIII)** [NO CHANGE]

**(a)(4.5)** through **(a)(5)** [NO CHANGE]

**(b)** through **(c)** [NO CHANGE]

## **Rule 7. The Indictment and the Information**

**(a)** through **(h)** [NO CHANGE]

**(h)(1)** In cases in which a direct information was filed pursuant to Rule 7(c), charging: (1) a class 1, 2, or 3 felony; (2) a level 1 or 2 drug felony; or (3) a class 4, 5, or 6 felony or a level 3 or 4 drug felony if such felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 or is a sexual offense under part 4 of article 3 of title 18, C.R.S., a preliminary hearing is authorized. Either the defendant or the prosecutor may request a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the information has been committed by the defendant. However, any defendant accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; 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 or a level 3 or 4 drug felony who may not request a preliminary hearing shall participate in a dispositional hearing unless otherwise waived for the purposes of case evaluation and potential resolution. Except upon a finding of good cause, the request for a preliminary hearing must be made within 7 days after the defendant is brought before the court for or following the filing of the information in that court and prior to a plea. No request for a preliminary hearing may be filed in a case which is to be tried upon indictment.

**(h)(2)** through **(h)(5)** [NO CHANGE]

**(i)** [NO CHANGE]

**Amended and Adopted by the Court, En Banc, September 13, 2018, effective immediately.**

**By the Court:**

**Carlos A. Samour, Jr.**

**Justice, Colorado Supreme Court**