

DAYTIME ARREST DEFINED

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Perry L. Buckner

AN ACT RELATING TO THE CODE OF CRIMINAL PROCEDURE; DEFINING DAYTIME HOURS FOR ARREST WARRANTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-7-5, as last amended by Chapter 17, Laws of Utah 1993

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-7-5** is amended to read:

77-7-5. Issuance of warrant -- Time and place arrests may be made -- Contents of warrant -- Responsibility for transporting prisoners -- Court clerk to dispense restitution for transportation.

(1) A magistrate may issue a warrant for arrest upon finding probable cause to believe that the person to be arrested has committed a public offense. If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant can be made at night only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

(2) For the purpose of Subsection (1):

(a) daytime hours are the hours of 6:00 a.m. to 10:00 p.m.; and

(b) nighttime hours are the hours after 10:00 p.m. and before 6:00 a.m.

~~[(2)]~~ (3) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection (3)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

(c) (i) The law enforcement agency identified by the magistrate under Subsection (a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.

(ii) The court clerk shall account for restitution paid under Section 76-3-201 for governmental transportation expenses and dispense restitution monies collected by the court to the law enforcement agency responsible for the transportation of a convicted defendant.