

28 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
29 *of the two houses voting in favor thereof:*

30 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend
31 rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of
32 all members of both houses of the Legislature:

33 Section 1. **Rule 7B**, Utah Rules of Criminal Procedure is amended to read:

34 **Rule 7B. Preliminary Examinations.**

35 (a) **Burden of proof.** At the preliminary examination, the state has the burden of proof
36 and proceeds first with its case. At the conclusion of the state's case, the defendant may testify
37 under oath, call witnesses, and present evidence. The defendant may also cross-examine
38 adverse witnesses.

39 (b) **Probable cause determination.** If from the evidence the magistrate finds probable
40 cause to believe that the crime charged has been committed and that the defendant has
41 committed it, the magistrate must order that the defendant be bound over for trial. The findings
42 of probable cause may be based ~~H~~→ [on hearsay, but may not be based solely] ←~~H~~ [on hearsay
42a evidence
43 ~~admitted under Rule 1102(b)(8) of the Utah Rules of Evidence~~], in whole or in part, on reliable
44 hearsay. Objections to evidence on the ground that it was acquired by unlawful means are not
45 properly raised at the preliminary examination.

46 (c) **If no probable cause.** If the magistrate does not find probable cause to believe the
47 crime charged has been committed or the defendant committed it, the magistrate must dismiss
48 the information and discharge the defendant. The magistrate may enter findings of fact,
49 conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the
50 state from instituting a subsequent prosecution for the same offense.

51 (d) **Witnesses.** At a preliminary examination, the magistrate, upon request of either
52 party, may exclude witnesses from the courtroom and may require witnesses not to converse
53 with each other until the preliminary examination is concluded.

54 (e) **Written findings.** If the magistrate orders the defendant bound over for trial, the
55 magistrate must execute a bind-over order and include any written findings in the case record.

56 (f) **Assignment on motion to quash.** If a defendant files a motion to quash a bind-over
57 order, the motion shall be decided by the judge assigned to the case after bind-over, regardless
58 of whether the judge conducted the preliminary examination in the judge's role as a magistrate.