

Alabama Rules of Criminal Procedure

Rule 7. Release.

Rule 7.4. Procedure for determination of release conditions.

(a) INITIAL DECISION. If a defendant has not been released from custody and is brought before a court for initial appearance, a determination of the conditions of release shall be made. The judge or magistrate shall issue an order containing the conditions of release and shall inform the defendant of the conditions, the possible consequences of their violation, and that a warrant for arrest of the defendant will be issued immediately upon report of a violation.

(b) AMENDMENT OF CONDITIONS. If the defendant is in custody, the judge or magistrate may, for good cause shown, either on its own initiative or on application of either party, modify the conditions of release, after first giving the parties an adequate opportunity to respond to the proposed modification.

(c) REVIEW BY CIRCUIT COURT. By the second day of each month, the officials having custody of defendants who are being held in jail pending trial or on extraordinary writs shall provide the presiding judge, the district attorney, and the clerk of the circuit court for the county in which such defendant is being held, the names of all defendants in their custody, the charge or charges upon which they are being held, and the date they were most recently taken into custody. The circuit court shall review the conditions of release for every defendant who has been in jail for more than ninety (90) days.

(d) REVIEW BY MUNICIPAL COURT. By the second day of each month, the officials having custody of defendants being held in a municipal jail pending trial or on extraordinary writs shall provide the presiding municipal judge, the city attorney, and the municipal court clerk, with the names of all defendants in their custody, the charge or charges upon which they are being held, and the date they were most recently taken into custody. The municipal court shall review the conditions of release for every defendant who has been in the municipal jail for more than ninety (90) days.

Committee Comments

Rule 7.4 provides the mechanism for setting and periodically reviewing release conditions. The conditions of release will usually be set on the arrest warrant at the time of its issuance. If not, or if the defendant cannot meet the conditions, the defendant gets a release hearing at initial appearance within seventy-two (72) hours of arrest. Thereafter, the conditions can be modified if need be, to be made either more or less stringent, depending on the circumstances.

Sections (c) and (d) provide a means by which the responsible officials will be apprised of the status of long-term holdovers.