

## Alabama Rules of Criminal Procedure

### Rule 27. Probation and probation revocation.

#### *Rule 27.5. Initial appearance after arrest.*

(a) INITIAL APPEARANCE. When a probationer is arrested pursuant to Rule 27.4(b) or Rule 27.4(c), the probation officer shall be notified immediately (unless the officer made the arrest), and the probationer shall be taken without unnecessary delay before the judge who issued the warrant or summons, if available, or, in case of an arrest without a warrant, before the original sentencing judge, if available; otherwise, the probationer shall be taken before another judge of the same district or circuit, who shall

(1) Inform the probationer of the alleged violation of probation and furnish the probationer with a written copy thereof;

(2) Inform the probationer that any statement the probationer makes prior to the hearing may be used against the probationer;

(3) Advise the probationer of his or her right to request counsel and appoint counsel to represent an indigent probationer if the requirements of Rule 27.6(b) are met;

(4) Set the date of the revocation hearing; and

(5) Determine whether the probationer is to be released pending the probation revocation hearing or is to be held without bond.

In cases involving breaches of conditions of probation because of nonpayment of fines, costs, restitution, or other court-ordered assessments, the court, before the probationer is incarcerated, must inquire into the probationer's financial status and determine whether the probationer is indigent.

(b) SUMMARY DISPOSITION. The probationer may waive the probation hearing under Rule 27.6(a) and the judge of the sentencing court may make a final disposition of the issue, if

(1) The probationer has been given sufficient prior notice of the charges and sufficient notice of the evidence to be relied upon; and

(2) The probationer admits, under the requirements of Rule 27.6(c), that he committed the alleged violation.

[Amended eff. 12-1-97.]

**Committee Comments to Amendment to Rule 27(a)**  
**Effective December 1, 1997**

This amendment to Rule 27.5(a) recognizes the fact that the release provisions of Rule 7.2(b) did not adequately address the release of a probationer arrested for a violation of probation conditions and recognizes that the provisions of § 15-13-109, Ala.Code 1975, granting the court the discretion to set bail for a probationer who has been arrested, govern the release of a probationer pending the probation revocation hearing.