**Rule 210 – Proposed Revisions**

**Version 12-6-2018**

**[REDLINE VERSION]**

**Rule 210. Arraignment.**

**…**

(4)  ~~A defendant appearing without counsel at arraignment shall be advised by the court of the nature of the charges contained in the complaint and of the maximum penalty which the court may impose in the event of a conviction; in addition, the court shall inform the defendant of the following rights~~:At the first appearance of the defendant in court or upon arraignment, whichever is first in time, it is the duty of the judge to inform the defendant and make certain that the defendant understands the following:

(I)  ~~To bail;~~ The defendant need make no statement, and any statement made can and may be used against him or her.

(II)  ~~To make no statement, and that any statement made can and may be used against the defendant~~; The defendant has a right to counsel.

(III)  ~~To be represented by counsel, and, if indigent, the right to appointed counsel as applicable;~~ If the defendant is an indigent person, he or she may make application for a court-appointed attorney, and, upon payment of the application fee, he or she will be assigned counsel as provided by law or applicable rule of criminal procedure.

(IV)  ~~To have process issued by the court, without expense to the defendant, to compel the attendance of witnesses in defendant's behalf;~~ Any plea the defendant makes must be voluntary on his or her part and not the result of undue influence or coercion on the part of anyone.

(V)  ~~To testify or not to testify in defendant's own behalf;~~ The defendant has a right to bail, if the offense is bailable, and the amount of bail that has been set by the court.

(VI)  To a trial by jury ~~where such right is granted by statute or ordinance, together with the requirement that the defendant, if desiring a jury trial, demand such trial by jury in writing within 21 days after arraignment or entry of a plea; also the number of jurors allowed by law, and of the requirement that the defendant, if desiring a jury trial, tender to the court within 21 days after arraignment or entry of a plea a jury fee of $25 unless the fee be waived by the judge because of the indigence of the defendant~~ or by the court pursuant to C.M.C.R. 223.

(VII)  ~~To appeal.~~ The nature of the charges against the defendant and the maximum possible penalties.

**…**

(No other proposed changes to this Rule)

**[CLEAN VERSION]**

**Rule 210. Arraignment.**

**….**

(4)  At the first appearance of the defendant in court or upon arraignment, whichever is first in time, it is the duty of the judge to inform the defendant and make certain that the defendant understands the following:

(I)  The defendant need make no statement, and any statement made can and may be used against him or her.

(II)  The defendant has a right to counsel.

(III)  If the defendant is an indigent person, he or she may make application for a court-appointed attorney, and, upon payment of the application fee, he or she will be assigned counsel as provided by law or applicable rule of criminal procedure.

(IV)  Any plea the defendant makes must be voluntary on his or her part and not the result of undue influence or coercion on the part of anyone.

(V)  The defendant has a right to bail, if the offense is bailable, and the amount of bail that has been set by the court.

(VI)  To a trial by jury or by the court pursuant to C.M.C.R. 223.

(VII)  The nature of the charges against the defendant and the maximum possible penalties.

…

(No other proposed changes to this Rule)

**COMMENT:**

The court’s duty to inform on first appearance in court and on pleas of guilty pursuant to 16-7-207, C.R.S., is now applicable to municipal courts as of July 1, 2018. See H.B. 17-1083 ((Note: The effective date of H.B. 17-1083 changed from May 1, 2017 to July 1, 2018, by H.B. 17-1316. See L. 2017, p. 607)).

A defendant’s right to trial by jury or by the court is detailed in C.M.C.R. 223.