

1 **5-409. Pretrial detention.**

2 A. **Scope.** Notwithstanding the right to pretrial release under Article II, Section 13 of
3 the New Mexico Constitution and Rule 5-401 NMRA, under Article II, Section 13 and this rule,
4 the district court may order the detention pending trial of a defendant charged with a felony offense
5 if the prosecutor files a motion for an expedited pretrial detention hearing and proves by clear and
6 convincing evidence that no release conditions will reasonably protect the safety of any other
7 person or the community.

8 B. **Motion for pretrial detention.** The prosecutor may file a motion for an expedited
9 pretrial detention hearing at any time in the court where the case is pending. The motion shall
10 include the specific facts that warrant pretrial detention and shall specify whether the state is
11 requesting a preliminary examination to establish probable cause. If the state requests a
12 preliminary examination, the motion shall also specify whether the state is requesting that an
13 expedited pretrial detention hearing be held concurrently.

14 (1) The prosecutor shall immediately deliver a copy of the motion to

15 (a) the detention center holding the defendant, if any;

16 (b) the defendant and defense counsel of record, or, if defense counsel
17 has not entered an appearance, the local law office of the public defender or, if no local office
18 exists, the director of the contract counsel office of the public defender.

19 (2) The defendant may file a response to the motion for pretrial detention in the
20 district court, but the filing of a response shall not delay the hearing under Paragraph F of this rule.
21 If a response is filed, the defendant shall promptly provide a copy to the assigned district court
22 judge and the prosecutor.

1 (3) Except [~~where~~] when the court finds no probable cause, the court may not
2 grant or deny the motion for pretrial detention without a hearing.

3 C. **Case initiated in magistrate or metropolitan court.** If a motion for pretrial
4 detention is filed in the magistrate or metropolitan court and a probable cause determination has
5 not been made, the magistrate or metropolitan court shall determine probable cause under Rule 6-
6 203 NMRA or Rule 7-203 NMRA. If the court finds no probable cause, the court shall order the
7 immediate personal recognizance release of the defendant under Rule 6-203 NMRA or Rule 7-
8 203 NMRA and shall deny the motion for pretrial detention without prejudice. If probable cause
9 has been found, the magistrate or metropolitan court shall proceed to conduct the defendant's first
10 appearance under Rule 6-501 NMRA or Rule 7-501 NMRA and thereafter promptly send to the
11 district court clerk a copy of the motion for pretrial detention, the criminal complaint, and all other
12 papers filed in the case. The magistrate or metropolitan court shall then close the case and its
13 jurisdiction shall be terminated, and the district court shall acquire exclusive jurisdiction over the
14 case, except as provided in Paragraph I of this rule.

15 D. **Case initiated in district court.** If a motion for pretrial detention is filed in the
16 district court and an initial finding of probable cause has not been made under Rule 5-301 NMRA,
17 Rule 6-203 NMRA, or Rule 7-203 NMRA, the district court shall determine probable cause in
18 accordance with Rule 5-301 NMRA. If the court finds no probable cause, the court shall order the
19 immediate personal recognizance release of the defendant under Rule 5-301 NMRA and shall deny
20 the motion for pretrial detention without prejudice. If probable cause is found, the court shall
21 proceed to conduct the defendant's first appearance under Rule 5-301(D) NMRA and Rule 5-
22 401(A) NMRA.

23 E. **Detention pending hearing; warrant.**

1 (1) ***Defendant in custody when motion is filed.*** If a detention center receives a
2 copy of a motion for pretrial detention, the detention center shall distribute the motion to any
3 person designated by the district, magistrate, or metropolitan court to release defendants from
4 custody under Rule 5-401(N) NMRA, Rule 5-408 NMRA, Rule 6-401(M) NMRA, Rule 6-
5 408 NMRA, Rule 7-401(M) NMRA, or Rule 7-408 NMRA. All authority of any person to release
6 a defendant under that designation is terminated on receipt of a detention motion until further court
7 order.

8 (2) ***Defendant not in custody when motion is filed.*** If the defendant is not in
9 custody when the motion for pretrial detention is filed, the district court may issue a warrant for
10 the defendant's arrest if the motion establishes probable cause to believe the defendant has
11 committed a felony offense and alleges sufficient facts that, if true, would justify pretrial detention
12 under Article II, Section 13 of the New Mexico Constitution. If the motion does not allege
13 sufficient facts, the court shall issue a summons and notice of hearing.

14 F. **Expedited pretrial detention hearing.** The district court shall hold an expedited
15 hearing on the motion for pretrial detention to determine whether any release condition or
16 combination of conditions set forth in Rule 5-401 NMRA will reasonably protect the safety of any
17 other person or the community. On the request of the prosecutor or on the court's own motion, the
18 court shall set the matter for a preliminary examination to be held concurrently with the motion
19 for pretrial detention.

20 (1) ***Time.***

21 (a) ***Time limit.*** The hearing shall be held promptly. Unless the court has
22 issued a summons and notice of hearing under Subparagraph (E)(2) of this rule, the hearing shall
23 commence no later than five (5) days after the later of the following events:

1 (i) the filing of the motion for pretrial detention; or
2 (ii) the date the defendant is arrested as a result of the motion
3 for pretrial detention.

4 (b) *Time limit for concurrent hearings.* Notwithstanding the time limit
5 specified in Subparagraph (F)(1)(a) of this rule, if the prosecutor requests or the court on its own
6 motion orders the expedited pretrial detention hearing and preliminary examination to be held
7 concurrently, the consolidated hearing shall be held no less than eight (8) days and no more than
8 ten (10) days [~~following~~] after the applicable triggering event identified in Subparagraph
9 (F)(1)(a)(i) and (ii) of this rule.

10 (c) *Extensions.* The time enlargement provisions in Rule 5-104 NMRA
11 do not apply to a pretrial detention hearing. The court shall extend the time limit for holding the
12 hearing as follows:

13 (i) for three (3) days to five (5) days, as provided in
14 Subparagraph (F)(1)(b) of this rule, if in the motion for pretrial detention the prosecutor requests
15 or the court on its own motion orders a preliminary hearing to be held concurrently with the
16 detention hearing;

17 (ii) for up to three (3) days on a showing that extraordinary
18 circumstances exist and justice requires the extension;

19 (iii) on the defendant filing a waiver of the time limit; or

20 (iv) on stipulation of the parties.

21 (d) *Notice.* The court shall promptly schedule the hearing and notify the
22 parties of the hearing setting within one (1) business day after the filing of the motion.

23 (2) *Initial disclosures.*

1 (a) The prosecutor shall promptly disclose to the defendant [~~prior to~~]
2 before the hearing

3 (i) all evidence that the prosecutor intends to rely on at the
4 hearing, and

5 (ii) all exculpatory evidence known to the prosecutor.

6 (b) Except in cases where the hearing is held within two (2) business
7 days after the filing of the motion, the prosecutor shall disclose evidence under this subparagraph
8 at least twenty-four (24) hours before the hearing. At the hearing, the prosecutor may offer
9 evidence or information that was discovered after the disclosure deadline, but the prosecutor must
10 promptly disclose the evidence to the defendant.

11 (3) ***Defendant's rights.*** The defendant has the right to be present and to be
12 represented by counsel and, if financially unable to obtain counsel, to have counsel appointed. The
13 defendant shall be afforded an opportunity to testify, to present witnesses, to compel the attendance
14 of witnesses, to cross-examine witnesses who appear at the hearing, and to present information by
15 proffer or otherwise. If the defendant testifies at the hearing, the defendant's testimony shall not
16 be used against the defendant at trial except for impeachment purposes or in a subsequent
17 prosecution for perjury.

18 (4) ***Prosecutor's burden.*** The prosecutor must prove by clear and convincing
19 evidence that the defendant is likely to pose a threat to the safety of others if released pending trial
20 and that no release conditions will reasonably protect the safety of any other person or the
21 community.

22 (5) ***Evidence.*** The New Mexico Rules of Evidence shall not apply to the
23 presentation and consideration of information at the hearing. The court may make its decision

1 ~~[regarding]~~ about pretrial detention based on documentary evidence, court records, proffer, witness
2 testimony, hearsay, argument of counsel, input from a victim, ~~[if any,]~~ and any other reliable proof
3 presented at the hearing.

4 (6) ***Factors to be considered.*** The court shall consider any fact relevant to the
5 nature and seriousness of the danger to any person or the community that would be posed by the
6 defendant's release and any fact relevant to the issue of whether any conditions of release will
7 reasonably protect the safety of any person or the community, including but not limited to the
8 following:

9 (a) the nature and circumstances of the offense charged, including
10 whether the offense is a crime of violence;

11 (b) the weight of the evidence against the defendant;

12 (c) the history and characteristics of the defendant;

13 (d) the nature and seriousness of the danger to any person or the
14 community that would be posed by the defendant's release;

15 (e) any facts tending to indicate that the defendant may or may not
16 commit new crimes if released; and

17 (f) whether the defendant has been ordered detained under Article II,
18 Section 13 of the New Mexico Constitution based on a finding of dangerousness in another
19 pending case or was ordered detained based on a finding of dangerousness in any prior ~~[case; and]~~
20 case.

21 ~~[(g) any available results of a pretrial risk assessment instrument~~
22 ~~approved by the Supreme Court for use in the jurisdiction, provided that the court shall not defer~~

1 ~~to the recommendation in the instrument but shall make an independent determination of~~
2 ~~dangerousness and community safety based on all information available at the hearing.]~~

3 **G. Order for pretrial detention.** The district court shall issue a written order for
4 pretrial detention at the conclusion of the pretrial detention hearing if the court determines by clear
5 and convincing evidence that the defendant is likely to pose a threat to the safety of others if
6 released pending trial and that no release conditions will reasonably protect the safety of any other
7 person or the community. An order containing findings of the individualized facts justifying the
8 detention must be filed as soon as possible, but no later than three (3) days after the conclusion of
9 the hearing.

10 **H. Order setting conditions of release.** The district court shall deny the motion for
11 pretrial detention if, on completion of the pretrial detention hearing, the court determines that the
12 prosecutor has failed to prove the grounds for pretrial detention by clear and convincing evidence.
13 At the conclusion of the pretrial detention hearing, the court shall issue an order setting conditions
14 of release under Rule 5-401 NMRA. The court shall file findings of the individualized facts
15 justifying the denial of the detention motion as soon as possible, but no later than three (3) days
16 after the conclusion of the hearing.

17 **I. Further proceedings in cases initiated in magistrate or metropolitan court.** If,
18 ~~[following]~~ after a preliminary examination, the district court finds no probable cause to believe
19 that the defendant has committed a felony offense, the court shall set conditions of release and may
20 remand any remaining misdemeanor charges to the magistrate or metropolitan court for further
21 proceedings.

22 **J. Expedited trial scheduling for defendant in custody.** The district court shall
23 provide expedited priority scheduling in a case in which the defendant is detained pending trial.

1 The court shall hold a status review hearing in any case in which the defendant has been held for
2 more than six (6) months and every six (6) months thereafter. The purpose of the status review
3 hearing is to conduct a meaningful review of the progress of the case. If the court determines that
4 insufficient progress has been made, then the court shall issue an appropriate scheduling order.

5 **K. Successive motions for pretrial detention and motions to reconsider.** On written
6 motion of the prosecutor or the defendant, the district court may reopen the detention hearing at
7 any time before trial if the court finds that

8 (1) information exists that was not known to the movant at the time of the
9 hearing or circumstances have changed [~~subsequent to~~] after the hearing, and

10 (2) the information or changed circumstance has a material bearing on whether
11 the previous ruling should be reconsidered.

12 **L. Appeal.** Either party may appeal the district court order disposing of the motion for
13 pretrial detention in accordance with Rule 5-405 NMRA and Rule 12-204 NMRA. The district
14 court order shall remain in effect pending disposition of the appeal.

15 **M. Judicial discretion; disqualification and excusal.** Action by any court on any
16 matter relating to pretrial detention shall not preclude the subsequent statutory disqualification of
17 a judge. A judge may not be excused from presiding over a detention hearing unless the judge is
18 required to recuse under the provisions of the New Mexico Constitution or the Code of Judicial
19 Conduct.

20 [Adopted by Supreme Court Order No. 17-8300-005, effective for all cases pending or filed on or
21 after July 1, 2017; as amended by Supreme Court Order No. 18-8300-024, effective for all cases
22 pending or filed on or after February 1, 2019; as amended by Supreme Court Order Nos. 20-8300-
23 013 and 20-8300-021, effective for all cases pending or filed on or after November 23, 2020; as

1 amended by Supreme Court Order No. 22-8300-015, effective for all cases pending or filed on or
2 after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2024-00068,
3 effective for all cases pending or filed on or after May 8, 2024.]

4 **Committee commentary.** —

5 **Paragraph A** — In addition to the detention authority for dangerous defendants authorized
6 by the 2016 amendment to Article II, Section 13 of the New Mexico Constitution, a court
7 conceivably could be faced with a request to detain under the preexisting exception to the right to
8 pretrial release in “capital offenses when the proof is evident or the presumption great.” *Id.* As a
9 result of the repeal of capital punishment for offenses committed after July 1, 2009, this provision
10 will be applicable only to offenses alleged to have been committed [~~prior to~~ before that date for
11 which capital punishment may be imposed. *See State v. Ameer*, 2018-NMSC-030, ¶¶ 5-6, 70, 458
12 P.3d 390.

13 Although this rule does not provide the district court with express sanction authority, the
14 district court retains inherent authority to “impose a variety of sanctions on both litigants and
15 attorneys in order to regulate docket, promote judicial efficiency, and deter frivolous filings.” *State*
16 *ex rel. N.M. State Highway & Transp. Dep’t v. Baca*, 1995-NMSC-033, ¶ 11, 120 N.M. 1, 896
17 P.2d 1148 (internal quotation marks and citation omitted); *see also State v. Le Mier*, 2017-NMSC-
18 017, ¶ 19, 394 P.3d 959 (“Where discovery violations inject needless delay into the proceedings,
19 courts may impose meaningful sanctions to effectuate their inherent power and promote efficient
20 judicial administration.”). “Extreme sanctions such as dismissal are to be used only in exceptional
21 cases.” *State v. Harper*, 2011-NMSC-044, ¶ 16, 150 N.M. 745, 266 P.3d 25 (internal quotation
22 marks and citation omitted), *modified on other grounds by Le Mier*, 2017-NMSC-017. *Cf.* Rule 5-
23 206 NMRA (providing that an attorney may be subject to appropriate disciplinary action for

1 violating the rule); Rules 5-501(H), 5-502(G), 5-503.2(B), and 5-505(B) NMRA (sanctions for
2 discovery violations); Rule 5-511 NMRA (sanctions for burdening a person subject to a
3 subpoena).

4 **Paragraph B** — Paragraph B permits the prosecutor to file a motion for pretrial detention
5 at any time. The prosecutor may file the motion at the same time that the prosecution requests a
6 warrant for the defendant’s arrest under Rule 5-208(D) NMRA.

7 Under this paragraph, the prosecutor retains discretion to “obtain a neutral determination
8 of probable cause” by either presenting the case to a grand jury or proceeding with a preliminary
9 examination. *See Herrera v. Sanchez*, 2014-NMSC-018, ¶ 14, 328 P.3d 1176. However, because
10 the district court faces time constraints in setting a preliminary examination if requested, the
11 prosecutor is required to advise the court of the need for the setting by stating in the motion for
12 pretrial detention whether the prosecutor intends to proceed by grand jury indictment or instead by
13 preliminary examination and the filing of a criminal information.

14 **Paragraph C** — Under Paragraph C, the filing of a motion for pretrial detention deprives
15 the magistrate or metropolitan court of jurisdiction and confers exclusive jurisdiction on the district
16 court, except as provided by Paragraph I. The district court’s exclusive jurisdiction extends to cases
17 that are refiled after dismissal.

18 **Paragraphs C and D** — Federal constitutional law requires a “prompt judicial
19 determination of probable cause” to believe the defendant committed a chargeable offense, before
20 or within forty-eight (48) hours after arrest, in order to continue detention or other significant
21 restraint of liberty. *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 47, 56 (1991). A finding of
22 probable cause does not relieve the prosecutor from proving the grounds for pretrial detention by
23 clear and convincing evidence.

1 **Paragraph F** — Paragraph F sets forth procedures for pretrial detention hearings. The
2 court must “make three categories of determinations” at a pretrial detention hearing:

3 (1) which information in any form carries sufficient indicia of reliability to be worthy of
4 consideration, (2) the extent to which that information would indicate that a defendant may be
5 likely to pose a threat to the safety of others if released pending trial, and (3) whether any potential
6 pretrial release conditions will reasonably protect the safety of others.

7 *State v. Groves*, 2018-NMSC-006, ¶ 29, 410 P.3d 193, 198 (internal quotation marks and
8 citation omitted).

9 Subparagraph (F)(1)(c)(i) authorizes an extension of time if the prosecutor requests or the
10 court orders a preliminary hearing to be held concurrently with the detention hearing.

11 Subparagraph (F)(3) describes the defendant’s rights at the hearing. “[T]he Due Process
12 Clause of the New Mexico Constitution requires that a defendant’s protections at a pretrial
13 detention hearing include ‘the right to counsel, notice, and an opportunity to be heard.’” *State ex*
14 *rel. Torrez v. Whitaker*, 2018-NMSC-005, ¶ 88, 410 P.3d 201 (quoting *State v. Brown*, 2014-
15 NMSC-038, ¶ 20, 338 P.3d 1276). “Due process requires a meaningful opportunity to cross-
16 examine testifying witnesses or otherwise challenge the evidence presented by the state at a pretrial
17 detention hearing.” *Id.* The defendant shall be entitled to appear and participate personally with
18 counsel before the judge conducting the detention hearing, rather than by any means of remote
19 electronic conferencing.

20 Subparagraph (F)(5) provides that the Rules of Evidence do not apply at a pretrial detention
21 hearing, consistent with Rule 11-1101(D)(3)(e) NMRA. In [~~Torrez,~~] Torrez, the Supreme Court
22 clarified that “neither the United States Constitution nor the New Mexico Constitution
23 categorically requires live witness testimony at pretrial detention hearings.” 2018-NMSC-005, ¶

1 110. The court may rely on “credible proffers and other summaries of evidence, law enforcement
2 and court records, or other nontestimonial information” in determining whether the prosecutor has
3 met its burden under Article II, Section 13 of the New Mexico Constitution. *Id.* ¶ 3. In doing so,
4 the court should exercise “sound judicial discretion in assessing the reliability and accuracy of
5 information presented in support of detention, whether by proffer or direct proof.” *Id.* ¶ 81. The
6 “court necessarily retains the judicial discretion to find proffered or documentary information
7 insufficient to meet the constitutional clear and convincing evidence requirement in the context of
8 particular cases.” *Id.* ¶ 3. Both the prosecutor and the defendant may proceed by proffer at the
9 pretrial detention hearing.

10 Subparagraph (F)(6) lists factors that the court may consider in assessing whether the
11 prosecutor has met its burden of proving by clear and convincing evidence that the defendant is
12 likely to pose a threat to the safety of others if released pending trial and whether any potential
13 pretrial release conditions will reasonably protect the safety of others. This assessment “require[s]
14 a detention court to engage in a delicate case-by-case balancing of all relevant factors, with the
15 calculus limited only ‘by what evidence the litigants present.’” *State v. Mascareno-Haidle*, 2022-
16 NMSC-015, ¶ 39, 514 P.3d 454 (citing *State v. Ferry*, 2018-NMSC-004, ¶ 7, 409 P.3d 918).
17 Among other factors, the court may consider the nature and circumstances of the charged offense
18 and the defendant’s history and characteristics. *See State v. Groves*, 2018-NMSC-006, ¶¶ 32-
19 33, 410 P.3d 193 (explaining that the defendant’s past conduct can help the court assess whether
20 the defendant poses a future threat of danger). In *Ferry*, the Supreme Court explained that “the
21 nature and circumstances of a defendant’s conduct in the underlying charged offense(s) may be
22 sufficient, despite other evidence, to sustain the [prosecutor’s] burden of proving by clear and
23 convincing evidence that the defendant poses a threat to others or the community.” 2018-NMSC-

1 004, ¶ 6. However, the detention court shall not “consider the nature and circumstances of the
2 offense factor in isolation and to the exclusion of all other relevant factors, whether those factors
3 are expressly identified in the rule or not.” *Masacreño-Haidle*, 2022-NMSC-015, ¶ 39 (internal
4 quotation marks omitted). Furthermore, the type of offense charged, by itself and without more,
5 will not suffice to meet the prosecutor’s burden. *See Groves*, 2018-NMSC-006, ¶ 33 (discounting
6 the relevance at a detention hearing of “the category or punishability of the charged crime,” and
7 recognizing that “the court’s focused concern is not to impose punishment for past conduct but
8 instead to assess a defendant’s likely future conduct” (citing *Torrez*, 2018-NMSC-005, ¶ 101)). If
9 the prosecutor meets this initial burden, the prosecutor must also demonstrate by clear and
10 convincing evidence that “no release conditions will reasonably protect the safety of any other
11 person or the community.” *Ferry*, 2018-NMSC-004, ¶ 6. “For example, the [prosecutor] may
12 introduce evidence of a defendant’s defiance of restraining orders; dangerous conduct in violation
13 of a court order; intimidation tactics; threatening behavior; stalking of witnesses, victims, or
14 victims’ family members; or inability or refusal to abide by conditions of release in other
15 cases.” *Id.*

16 The 2024 amendment removes a reference to a pretrial risk assessment instrument
17 approved by the Supreme Court. The risk assessment instrument remains valid. However, this
18 instrument only measures risk and should not be used as a stand-alone factor to make a
19 recommendation for or against pretrial detention. The risk assessment score may be considered as
20 part of a defendant’s history and characteristics under Subparagraph (F)(6)(c).

21 **Paragraph I** — On the transfer of a case to the district court, the magistrate or metropolitan
22 court generally loses jurisdiction under Paragraph C of this rule. A single narrow exception is set
23 out in Paragraph I, whose provisions allow a case to be remanded to the magistrate or metropolitan

1 court only if, after a preliminary hearing, misdemeanor—not felony—charges alone remain, and
2 then at the sole discretion of the district court. A case in which the prosecutor files and
3 subsequently withdraws a motion for pretrial detention cannot be remanded to the magistrate or
4 metropolitan court for further proceedings, unless the case otherwise meets the misdemeanor
5 exception carved out under this paragraph.

6 **Paragraph J** — Paragraph J requires the district court to prioritize the scheduling of trial
7 and other proceedings for cases in which the defendant is held in custody. *See generally United*
8 *States v. Salerno*, 481 U.S. 739, 747 (1987) (concluding that the detention provisions in the Bail
9 Reform Act, 18 U.S.C. § 3142, did not violate due process, in part [~~due to~~] because of “the stringent
10 time limitations of the Speedy Trial Act,” 18 U.S.C. § 3161); Am. Bar Ass’n, *ABA Standards for*
11 *Criminal Justice: Pretrial Release*, Standard 10-5.11 (3d ed. 2007) (“Every jurisdiction should
12 establish, by statute or court rule, accelerated time limitations within which detained defendants
13 should be tried consistent with the sound administration of justice.”). This rule does not preclude
14 earlier or more regular status review hearings. The purpose of the hearing is to determine how best
15 to expedite a trial in the case. A meaningful review of the progress of the case includes assessment
16 of the parties’ compliance with applicable deadlines, satisfaction of discovery obligations, and
17 witness availability, among other matters. If the court determines that the parties have made
18 insufficient progress on these measures, then it shall issue an appropriate scheduling order.

19 **Paragraph K** — The district court may rule on a motion under Paragraph K with or
20 without a hearing. The district court has inherent discretion to reconsider its ruling on a motion for
21 pretrial detention. *See Sims v. Sims*, 1996-NMSC-078, ¶ 59, 122 N.M. 618, 930 P.2d 153 (“District
22 courts have plenary power over their interlocutory orders and may revise them . . . at any time

1 prior to final judgment.” (internal citation omitted)); *see also State v. Brown*, 2014-NMSC-038, ¶
2 13, 338 P.3d 1276 (recognizing that a pretrial release decision is interlocutory).

3 **Paragraph L** — Either party may appeal the district court’s ruling on the detention motion.
4 Under Article II, Section 13 of the New Mexico Constitution, an “appeal from an order denying
5 bail shall be given preference over all other matters.” *See also State v. Chavez*, 1982-NMSC-108,
6 ¶ 6, 98 N.M. 682, 652 P.2d 232 (holding that the state may appeal a ruling [~~where~~] when it is an
7 aggrieved party under Article VI, Section 2 of the New Mexico Constitution).

8 **Paragraph M** — Consistent with Rule 5-106 NMRA, a party cannot exercise the statutory
9 right to excuse a judge who is conducting a detention hearing. *See NMSA 1978, § 38-3-9* (1985).
10 Paragraph M does not prevent a judge from filing a recusal either on the court’s own motion or
11 motion of a party. *See N.M. Const. art. VI, § 18; Rule 21-211 NMRA.*

12 [Adopted by Supreme Court Order No. 17-8300-005, effective for all cases pending or filed on or
13 after July 1, 2017; as amended by Supreme Court Order No. 18-8300-024, effective for all cases
14 pending or filed on or after February 1, 2019; as amended by Supreme Court Order No. 20-8300-
15 021, effective for all cases pending or filed on or after November 23, 2020; as amended by
16 Supreme Court Order No. 22-8300-015, effective for all cases pending or filed on or after
17 December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective
18 for all cases pending or filed on or after May 8, 2024.]